

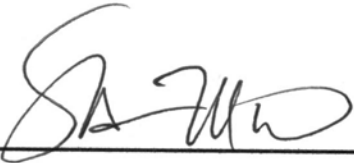
12/17/18

AMENDED

Minutes

**Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 19, 2018**

This is to certify that the Minutes contained herein are a true and accurate account of actions taken by the Alabama Environmental Management Commission on October 19, 2018.

A handwritten signature in black ink, appearing to read 'S. L. Miller', written over a horizontal line.

Samuel L. Miller, Chair

Alabama Environmental Management Commission

Certified this 14th day of December 2018.

AMENDED

Minutes

**Environmental Management Commission Meeting
Alabama Department of Environmental Management Building
1400 Coliseum Boulevard
Montgomery, Alabama 36110-2400
October 19, 2018**

Convened: 11:00 a.m.

Adjourned: 11:53 a.m.

Part A

Transcript

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Part A

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1
2
3
4 MEETING OF THE ALABAMA ENVIRONMENTAL
5 MANAGEMENT COMMISSION
6 OCTOBER 19, 2018
7 11:00 A.M.
8
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11
12
13 LOCATION: Alabama Department of Environmental
14 Management Building
15 Alabama Room
16 1400 Coliseum Boulevard
17 Montgomery, Alabama 36110
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1 MR. BROWN: Good morning. We'll
2 call the meeting of the Alabama Environmental
3 Management Commission to order. Note that we
4 have a quorum.
5 First item on the agenda is
6 consideration of the minutes of the meeting
7 held on August 17, 2018. The minutes have
8 been circulated to all Commissioners for
9 review prior to this meeting and Chair will
10 entertain a motion regarding the minutes.
11 DR. MILLER: I move we adopt the
12 minutes of the August 17th, 2018 meeting as
13 circulated.
14 MR. WALTERS: I'll second.
15 MR. BROWN: All in favor?
16 COMMISSIONERS: Aye.
17 MR. BROWN: Passes. The next item
18 on the agenda, this one makes me smile, is the
19 election of the Commission Chair and Vice
20 Chair. The Commission will consider the
21 election of the Chair and Vice Chair and I
22 will entertain a motion from the Commission
23 regarding the election of a Chair.

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1 A P P E A R A N C E S
2
3 COMMISSION MEMBERS PRESENT:
4 H. Lanier Brown, II, Chair/Newly appointed
5 Vice Chair
6 Samuel L. Miller, M.D., Newly appointed
7 Chair
8 John (Jay) H. Masingill, III
9 Ruby L. Perry, D.V.M.
10 Mary J. Merritt
11 Kevin McKinstry
12 *Tom Walters
13 ALSO PRESENT:
14 Robert Tambling, EMC Legal Counsel
15 Kayla Currie, Assistant Attorney General
16 Lance R. LeFleur, ADEM Director
17 Debi Thomas, EMC Executive Assistant
18
19
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21
22
23
*Amended per motion of December

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1 MS. MERRITT: I move to accept
2 Dr. Sam Miller as the chair of the Commission.
3 MR. MASINGILL: I second.
4 MR. BROWN: All in favor?
5 COMMISSIONERS: Aye.
6 MR. BROWN: Passes. Next we will
7 consider entertaining a motion from the
8 Commission regarding the election of a Vice
9 Chair.
10 MS. MERRITT: I move to accept
11 Lanier Brown as the Vice Chair of the
12 Commission.
13 DR. MILLER: I second.
14 MR. BROWN: Any discussion? Chair
15 calls the question. All in favor?
16 COMMISSIONERS: Aye.
17 MS. THOMAS: Would y'all like to
18 switch chairs?
19 MR. BROWN: Yes. Can I sign it
20 first?
21 MS. THOMAS: Well, too late.
22 MR. BROWN: I guess y'all know why
23 Dr. Richardson resigned now.
14, 2018, Commission meeting.

<p style="text-align: right;">Page 5</p> <p>1 DR. MILLER: While we pass this 2 down the road here, I would like to call for 3 the Director to give us his report today. 4 MR. LEFLEUR: Good morning to all 5 and welcome to the first meeting of the 6 Alabama Environmental Management Commission 7 Meeting for FY 2019. A special welcome to our 8 new Commissioners, Mr. Walters who is serving 9 in the Professional Engineer position, and 10 Dr. Perry, welcome. 11 DR. PERRY: Thank you. 12 MR. LEFLEUR: Who is serving in our 13 veterinary position and Mr. McKinstry who is 14 serving in the biologist position. Welcome 15 all of you. Your name tags are not to 16 identify you as new commissioners, yours being 17 different than others, simply that you were 18 named on Wednesday so there wasn't time to 19 have permanent ones. You'll have them at the 20 next Commission meeting though. But welcome 21 to all of you. 22 Dr. Miller, congratulations or 23 condolences, whatever the case may be. Thank</p>	<p style="text-align: right;">Page 7</p> <p>1 for public comment on October the 5th, 2018. 2 A public meeting will be held on November 7th, 3 2018, prior to the November 20th, 2018, close 4 of the comment period. After the public 5 comment period and the public meeting, the 6 Alabama RESTORE Council will prepare a 7 response to any comments received and the 8 final state expenditure plan will be sent to 9 the Federal RESTORE Council for approval. At 10 this time things still appear on target for 11 funding shortly after calendar year-end. The 12 Department has performed an analysis of the 13 historic and projected future geographic 14 dispersion of the workload in the southern 15 part of the state to help with identifying the 16 optimum location for the facility. 17 It's been five years since the 18 2014 Unified Strategic Plan was adopted, so as 19 set out in the ADEM Administrative Code, it's 20 now time to update the plan. At the April 21 Commission meeting the strategic -- a 22 Strategic Planning Ad Hoc Committee was 23 appointed and the public was invited to</p>
<p style="text-align: right;">Page 6</p> <p>1 you for taking on the mantle of chairman now 2 that Commissioner Brown has maxed out on his 3 allowable terms as chairman. 4 Today's report will update the 5 Commission on the Department's budget status, 6 review the proposed 2019 Unified Strategic 7 Plan, disclose the Department's 2018 and 2019 8 operating plans and update you on several 9 ongoing Departmental initiatives. 10 Our fiscal year 2019 began on 11 October 1st. FY 2018 closed out with balanced 12 funding and expenditures as anticipated. Our 13 FY 2019 state appropriation is the same as 14 fiscal year 2018. On the federal side, we are 15 operating under a Continuing Resolution until 16 a fiscal year 2019 federal budget is adopted. 17 The Continuing Resolution means our federal 18 funding this fiscal year will continue at the 19 same rate as last year until a final federal 20 budget is adopted. 21 Another milestone on funding for 22 a new field office in Mobile was passed when 23 the package including our project was put out</p>	<p style="text-align: right;">Page 8</p> <p>1 provide input to the plan. As part of the 2 process to develop a proposed 2019 Unified 3 Strategic Plan, EPA's recently released 2018 4 through 2022 Strategic Plan was reviewed for 5 consistency. 6 You have received a red-lined 7 copy of the proposed 2019 Unified Strategic 8 Plan and copies of the proposed plan are 9 available on a table in the lobby to any 10 interested party. 11 Later in today's agenda, there'll 12 be a -- we will receive a recommendation from 13 the Commission Strategic Planning Ad Hoc 14 Committee regarding the proposed 2019 Unified 15 Strategic Plan that was developed jointly by 16 that Committee and the Department. It is 17 anticipated the Commission will consider 18 adopting the 2019 Unified Strategic Plan at 19 its meeting on December 14, 2018. I'll walk 20 you through the major sections of the proposed 21 plan now. 22 The plan begins by setting out 23 certain foundational elements. First is the</p>

<p style="text-align: right;">Page 9</p> <p>1 Mission, Values and Operating Guidelines for 2 the Commission and the Department. Next, the 3 Roles of the Commission and the Department, 4 and third, the Vision for Achieving the Most 5 Meaningful Results For the Environment. 6 The Mission, as set out in the 7 statute that created the Commission and the 8 Department is to "Assure for all citizens of 9 the state a safe, healthful, and productive 10 environment." 11 The Values that Guide the 12 Operation of the Commission and the Department 13 are science-based decisions and policies, 14 mutually respecting the differing roles of the 15 Commission and the Department, transparent 16 communication, using resources wisely, and 17 acting on agreed upon goals. 18 The second foundational element 19 of the Unified Strategic Plan deals with the 20 roles of the Commission and the Department. 21 It begins by recognizing that the Commission 22 and the Department have differing roles. The 23 Commission's role is to set environmental</p>	<p style="text-align: right;">Page 11</p> <p>1 redeveloping contaminated sites, and promoting 2 recycling. For the Water media, it's the 3 attainment of water quality standards and all 4 use classifications and minimizing the effects 5 of storm water runoff. 6 These three components are 7 foundational and are constant in each update 8 of the Unified Strategic Plan. 9 The broad long-range goals in the 10 Strategic Plan are an Effective and Responsive 11 Commission, a High Performing Work 12 Environment, Credible Relationships With 13 External Stakeholders, and Efficient and 14 Effective Departmental Operations. 15 Significant progress toward 16 achieving these key goals has been made during 17 the last five years covered by the prior 18 Strategic Plan, however, the goals remain 19 relevant and are being reaffirmed in the 20 proposed 2019 Strategic Plan. 21 Likewise, the broad strategies 22 for achieving those goals are being reaffirmed 23 including effective communication between the</p>
<p style="text-align: right;">Page 10</p> <p>1 policy, and they do this by promulgating rules 2 which is a legislative-like function, hearing 3 appeals of administrative actions which is a 4 judicial-like function, and managing the 5 Director of the Department which is an 6 executive oversight role. 7 The Department's role is to 8 implement Commission policy by managing 9 permitting, making compliance determinations, 10 and taking necessary enforcement actions. 11 Finally, it's the Department's 12 role to provide timely quality information to 13 the Commission to assist in policy setting 14 decisions. 15 The third foundational element is 16 the vision for Achieving the Most Meaningful 17 Results for the Environment which is focused 18 individually on the air, land, and water 19 media. For the Air media, it is meeting or 20 beating federal ambient air quality 21 standards. For the Land media, it is the safe 22 and responsible management and disposal of 23 solid and hazardous waste, cleaning up and</p>	<p style="text-align: right;">Page 12</p> <p>1 Commission and the Department; effectively 2 addressing emerging issues, regulations, and 3 interaction with the public; robust 4 Departmental -- excuse me, Departmental 5 support for the Commission; steady 6 Departmental focus on goals; maintaining high 7 quality Departmental operations; finally 8 taking all necessary steps to assure high 9 levels of regulated industry compliance. 10 Additional details regarding each of the goals 11 and the strategies for achieving those goals 12 are set out in the proposed 2019 Unified 13 Strategic Plan document you have been 14 provided. 15 A few moments ago, I mentioned 16 that EPA recently released its 2018 through 17 2022 Strategic Plan. That plan has three 18 elements to it, deliver on the core mission of 19 clean air, land, and water and ensure chemical 20 safety. Second, rebalance the power between 21 Washington and the states to achieve results, 22 and administer the law as Congress intended. 23 The EPA Strategic Plan also</p>

<p style="text-align: right;">Page 13</p> <p>1 includes a series of one year goals. While 2 many of the EPA goals relate largely to 3 federal matters, many directly and indirectly 4 involve the states. There appear to be no 5 conflicts with any matters that relate to our 6 proposed 2019 Unified Strategic Plan or the 7 2019 Departmental Annual Operating Plan. The 8 2018 through '22 EPA Strategic Plan is in fact 9 much more in harmony with our strategic and 10 operating plans than was the case under the 11 prior administration. 12 In addition to reviewing the 13 proposed 2019 Unified Strategic Plan with you 14 today, I am also providing you with a copy of 15 the Department's 2019 Annual Operating Plan. 16 The Departmental Operating Plan that is 17 developed each year reflects the key goals and 18 strategies in the most recent Unified 19 Strategic Plan. The annual operating plan 20 identifies specific short and intermediate 21 term objectives and actions to implement the 22 goals of the Strategic Plan. 23 It's appropriate for the</p>	<p style="text-align: right;">Page 15</p> <p>1 Department's automation efforts. 2 For many years, very detailed 3 annual work plans have been negotiated between 4 EPA and the Department which cover each of our 5 four major programs, NPDES, Safe Drinking 6 Water, Resource Conservation Recovery Act, and 7 the Air program. The work plans set out how 8 funding will be spent and specific details on 9 what work will be accomplished. While meeting 10 or exceeding the EPA work plan requirements 11 for those four programs are only four of the 12 thirty-five total elements under the major 13 goal of Efficient and Effective Departmental 14 Operations, they cover most of the day-to-day 15 work of the Department. I am pleased to 16 report that in 2018, the Department continued 17 to meet or exceed all EPA work plan 18 requirements as it has done for many years. 19 Automation in the area of 20 e-enterprise and e-business continues to be an 21 important means to reduce costs, increase 22 quality and better serve the public. Our 23 Permits and Services Division is where this</p>
<p style="text-align: right;">Page 14</p> <p>1 Department to be held accountable for 2 executing its annual operating plan as a means 3 to achieve the objectives of the Strategic 4 Plan. Likewise, the performance of 5 Departmental personnel is measured in part by 6 the level of challenge in their individual 7 goals and their success in meeting those 8 goals. In order to track the Department's 9 efforts throughout the year in executing the 10 annual operating plan, prior to each 11 Commission meeting, it's been my practice to 12 send you a memorandum titled "ADEM Update," 13 which among other things addresses progress on 14 achieving the objectives set out in the 15 Department's Annual Operating Plan. Those six 16 memoranda, one prior to the each of the six 17 Commission meetings, have served as a running 18 update of execution of the FY 2018 Annual 19 Operating Plan, so I won't go into the detail 20 of repeating that information, however, I 21 would highlight two broad areas in both the 22 2018 and 2019 Annual Operating Plans, namely, 23 the emphasis on EPA work plans and the</p>	<p style="text-align: right;">Page 16</p> <p>1 work is done. Often overlooked because they 2 support activities for all media, the IT 3 branch of the Permits and Services Division is 4 the driving force in the continued move 5 towards greater automation. It has been a 6 major contributor to our ability to perform at 7 a level among the highest in the nation while 8 having the lowest funding in the nation. Many 9 of the goals in the Department's Annual 10 Operating Plan are tied to automation. Twenty 11 of the thirty-five initiatives under the goal 12 of Efficient and Effective Departmental 13 Operations relate to automation. The 14 red-lined copy of the FY 2019 Departmental 15 Operating Plan showing changes from the FY 16 2018 plan, which has been provided to you, 17 shows the details of the continued emphasis in 18 this area. On the table just outside this 19 meeting room are copies of both the proposed 20 2019 Unified Strategic Plan and the final 2019 21 Departmental Operating Plans, which are 22 available to interested parties. 23 I would like to now update you on</p>

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1 another matter in which a number of the
2 Commissioners have expressed a personal
3 interest. There have been some recent
4 positive developments in the longstanding and
5 difficult issues surrounding the Uniontown
6 Wastewater Treatment System. Uniontown is an
7 economically disadvantaged community in West
8 Central Alabama. The combination of poverty
9 and local clay soil that is ill-suited for
10 assimilating waste water has led to a
11 deteriorated municipal waste water system in
12 need of very high cost upgrades in order to
13 meet water quality standards that are
14 protective of human health and the
15 environment.
16 Despite significant efforts by
17 the local elected leaders, funding for the
18 upgrades was unavailable for a number of years
19 and the system continued to degrade and remain
20 noncompliant with environmental regulations.
21 The Department undertook enforcement action
22 while working with numerous other parties
23 seeking a solution to the engineering and

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1 keep the system viable and able to meet water
2 quality standards in the future, several steps
3 will be implemented including reporting --
4 requiring all homes within the city limits to
5 be hooked up to city water and sewer service,
6 establishment of a utility board with members
7 required to receive annual training, and
8 operation of the waste water system by a
9 qualified independent contractor. This is
10 good news.
11 A major element in both the
12 Strategic Plan and the Annual Operating Plan
13 is promoting a high performing work
14 environment and an important part of that is
15 encouraging the continued professional
16 development of our personnel. Our people are
17 the most important resource we have. Today
18 I'm pleased to recognize those who have
19 achieved significant milestones in their
20 professional development. Earning the
21 designation of Professional Geologist and
22 Certified Public Manager is no small feat.
23 Many hours of personal time, rigorous course

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1 funding challenges. When the Department's
2 enforcement options were exhausted, the matter
3 was turned over to the court as the only
4 remaining option. Despite the court now
5 having jurisdiction over the matter, the
6 Department has continued to work with others
7 seeking a solution to the problem.
8 I am pleased to report today that
9 as a result of the continuing efforts of local
10 elected leaders, several local businesses,
11 Senator Shelby, Congresswoman Sewell, Senator
12 Jones, Congressman Aderholt, the Delta
13 Regional Authority, the Alabama Rural Water
14 Association, ADEM and especially USDA, it
15 appears that funding will be available for the
16 \$31 million upgrade necessary to bring the
17 Uniontown Wastewater System into compliance
18 with water quality standards and environmental
19 permit requirements. The upgrade calls for
20 refurbishing the collection system and
21 constructing a pipeline system to convey waste
22 water to an existing facility in Demopolis
23 some eighteen miles from Uniontown. To help

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1 work and testing are required. Those who have
2 successfully completed the Certified Public
3 Manager I program, please stand when I call
4 your names. Daniel Arthur. Some of them may
5 not be here today, Daniel. Ross Caton, Latoya
6 Hall, Clay Messer, Aaron Roberts, Samantha
7 Sims, Carla Snow. You all can remain standing
8 if you would just a couple more minutes.
9 Those who have successfully
10 completed the advanced Certified Public
11 Manager II program, please stand when I call
12 your name, Sandra Favors, Rick Kelsey,
13 Jennifer McCord, Don Prempramot -- that's the
14 best I can do.
15 We have one person who has
16 achieved the Professional Geologist
17 designation, Jason Wilson. Please stand and
18 be recognized. Jason is not in here. Okay.
19 congratulations to all of you.
20 (Applause.)
21 That completes my report. At
22 this time I would like to add one additional
23 personal note. Dr. Richardson's term expired

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1 on September 30 of this year and the
2 Commission will consider making a resolution
3 recognizing his service today. Dr. Martin's
4 term also expired on September 30, and at the
5 December meeting of the Commission, they will
6 be considering a resolution recognizing his
7 service. Service on the Commission is truly
8 an act of public service. It requires many
9 hours of preparation before meetings. It
10 requires engaging with sometimes hostile
11 advocates often from several sides of an
12 issue. At times you are required to make
13 unpopular decisions that are publicly second
14 guessed and criticized. Your only reward is
15 the satisfaction of knowing you are making a
16 positive difference. I thank Dr. Richardson,
17 Dr. Martin, and each of you for your service
18 to our state and your wise counsel to me.
19 With that I will be pleased to
20 answer any questions you may have. Yes, sir.
21 MR. BROWN: How long before the
22 Uniontown Water Treatment Plan is executed and
23 complete?

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1 MR. LEFLEUR: Well, it's not going
2 to be this year. I think -- I think it will
3 begin in 20 -- calendar year 2019. Once
4 again, we as a Regulatory Agency regulate what
5 comes out of the pipe. It's up to the local
6 community to provide for the necessary
7 infrastructure to do that, but my
8 understanding is that they will be beginning
9 the work in 2019. This will happen under the
10 supervision of the USDA as well as an
11 engineering firm that's been retained and a
12 consulting engineer and the elected leaders
13 over there.
14 MR. BROWN: Will there be any kind
15 of interim?
16 MR. LEFLEUR: What are they doing
17 in the interim?
18 MR. BROWN: Right.
19 MR. LEFLEUR: Well, the waste water
20 treatment facility is operating. It is not
21 operating within their permit requirements.
22 However, the operation of the facility is
23 under the jurisdiction of the courts. So we

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1 have been supplanted if you will in that. Our
2 enforcement actions have gone as far as they
3 can go and now they're reporting regularly to
4 the court and the court is overseeing the
5 process to come back into compliance.
6 MR. BROWN: Thank you.
7 DR. MILLER: Any other questions?
8 Thank you, Director.
9 MR. LEFLEUR: Thank you.
10 DR. MILLER: Now I'm in a rather
11 unusual position of calling upon myself to
12 give a report of the Ad Hoc Committee for the
13 adoption of a draft 2019 AEMC and ADEM Unified
14 Strategic Plan.
15 Dr. Richardson was the chairman
16 of that committee and he provided feedback and
17 updates until the very last day of his term,
18 which was September the 30th. Commissioner
19 Merritt and I met this morning as the
20 remaining members of the Commission. We all
21 three read over the proposed document in
22 detail and found it to be well written and
23 found no need to make any substantial

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1 changes.
2 With that we would like to ask
3 the Commission -- for someone on the
4 Commission to move to consider the Strategic
5 Planning and Ad Hoc Committee's recommendation
6 and adoption of this draft document at the
7 December 14th Environmental Management
8 Commission meeting?
9 MR. BROWN: So move.
10 DR. MILLER: We have a motion. Do
11 we have a second?
12 MR. WALTERS: Second.
13 MS. MERRITT: Second.
14 DR. MILLER: All right. Any
15 further discussion? If not I call for the
16 question, all in favor please say aye.
17 COMMISSIONERS: Aye.
18 DR. MILLER: All opposed no. The
19 next item on our agenda is a report from the
20 Commission Chair and my report is that I don't
21 have a report. So we'll move on to item
22 number six which is consideration of a
23 resolution for former Commissioner Terry D.

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1 Richardson, Ph.D. I'm going to read this out
2 loud so we can have it inserted in the
3 minutes. It reads, Whereas, Terry D.
4 Richardson, Ph.D., served as a member of the
5 Environmental Management Commission in the
6 biologist/ecologist position from June 2010
7 until September 2018; and whereas he provided
8 experience, wisdom and foresight in the
9 Commission's deliberations on significant
10 issues and whereas his leadership abilities
11 were recognized by his election as Vice Chair
12 of the Commission, a position he held from
13 June 2017 to September 2018; and whereas
14 during his tenure on the Commission, he served
15 as a member and Chair of the Rulemaking
16 Committee and Chair of the Strategic Planning
17 Ad Hoc Committee; and whereas his steadfast
18 dedication to the service on the Commission
19 will be greatly missed by his fellow
20 Commissioners, the Commission's legal counsel
21 and assistant, leadership and staff of the
22 Alabama Department of Environmental
23 Management, and many within the governmental

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1 the Director's job performance. I as Chairman
2 through Debi sent a letter inviting the
3 public, the people on our list of normal
4 correspondents and the Commissioners to
5 provide feedback on Director's performance
6 from October '17 till today. We received a
7 lot of different opinions. We considered each
8 of these opinions as important and we took
9 them all into consideration. We also
10 recommended that the chairman, me, discuss
11 these findings with Director LeFleur. We left
12 Director LeFleur's salary at the same level
13 that it currently is because he's at the top
14 of his pay grade for pay grade 90. He's at
15 the last step. So there's no further step
16 that we can take.
17 So at this point we would move to
18 adopt a recommendation of the Committee, which
19 was to study the comments and take them all in
20 consideration, to leave the current salary of
21 the Director as is, and for me as Chairman of
22 the Committee to go and discuss the findings
23 with Director LeFleur. And I will take a

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1 regulated environmental communities. Now,
2 therefore be it resolved that the Alabama
3 Environmental Management Commission expresses
4 gratitude to Terry D. Richardson, Ph.D., for
5 significant contribution to a better
6 environment and improved quality of life for
7 the citizens of Alabama. This was dated
8 today, 19th of October, 2018.
9 We at this point need to have a
10 motion to adopt this resolution.
11 MR. BROWN: So move.
12 MS. MERRITT: Second.
13 DR. MILLER: Any discussion? If
14 not, all in favor of the motion please say
15 aye.
16 COMMISSIONERS: Aye.
17 DR. MILLER: All opposed no. All
18 right. Item number, again, I call upon myself
19 as Chair of the Personnel Committee at this
20 time for a report on the Director's Job
21 Performance Evaluation. We -- Chairman Brown
22 notified us in the June Commission meeting
23 that we needed to have the annual review of

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1 motion to adopt this recommendation by the
2 Commission.
3 MR. BROWN: So moved.
4 MS. MERRITT: Second.
5 DR. MILLER: All right. Is there
6 any further discussion? If not, I'm going to
7 call for the question. All in favor say aye.
8 COMMISSIONERS: Aye.
9 DR. MILLER: All opposed no. The
10 motion passes. I will get with Director
11 LeFleur and discuss the comments that we
12 received.
13 Our next agenda item is number 8,
14 which is a consideration of proposed
15 amendments to ADEM Administrative Code 335-1,
16 General Administrative Regulations. This is a
17 proposal to amend 335-1-1-.03 and 335-1-1.07,
18 to modify language as it relates to the
19 membership of the Commission in accordance
20 with Act number 2018-454, which is the
21 National Well Water Association position and
22 to more accurately represent the location of
23 the Commission records.

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1 The revisions to ADEM
2 Administrative Code Rule 335-1-1-.07 was add,
3 modify and delete appropriate forms. The
4 Department held a public hearing on the
5 proposed amendments on the August 8th, 2018,
6 and I'd like to call on the Department for
7 comment.
8 MR. KELLY: Good morning,
9 Mr. Chairman, and members of the Commission.
10 You stole all my thunder. You put that very
11 well. We did hold the hearing on August 8th.
12 There were no public comments. So therefore
13 it is before you to approve. So at this time
14 I would ask for your favorable consideration
15 in answering any questions you have.
16 DR. MILLER: So this basically will
17 expand this Commission membership to include
18 both well water and geologist. Am I correct
19 in that statement?
20 MR. KELLY: Yes, sir, basically
21 that reclarified the National Groundwater
22 Association Certification Program or a
23 professional geologist.

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1 DR. MILLER: Okay.
2 MR. KELLY: That was what was in
3 accordance with the Act and that's what we
4 placed in the rules.
5 DR. MILLER: All right. Any
6 questions by the Commission? Thank you very
7 much.
8 MR. KELLY: Yes, sir.
9 DR. MILLER: I'll entertain --
10 MR. BROWN: Move to adopt the
11 amendments.
12 DR. MILLER: Pardon?
13 MR. BROWN: Move to adopt the
14 amendments as described by the Chair.
15 DR. MILLER: Any second?
16 MR. WALTERS: Second.
17 DR. MILLER: Any other questions?
18 Then I'll call for the question. All in favor
19 signify by saying aye.
20 COMMISSIONERS: Aye.
21 DR. MILLER: All opposed no. It
22 sounds like that passed.
23 MR. KELLY: Thank you,

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1 Mr. Chairman.
2 DR. MILLER: Thank you. Agenda
3 item nine is ADEM Administrative Code 335-3
4 Air Pollution Control Program Regulations.
5 The Department promotes -- proposes to amend
6 the ADEM Administrative Code Rules
7 335-3-5-.13, 335-3-8.14, and 335-3-8-.46.
8 These revisions are proposed to incorporate
9 changes to the trading rules of EPA's Cross
10 State Air Pollution Rules to address the
11 distribution of any excess allocations that
12 remain after an existing unit has reached its
13 historic emission cap. The changes as
14 proposed also address allocations set aside
15 from any new Nitrous Oxide Ozone Season units
16 in Indian country within the state.
17 Would the Department please
18 comment on that?
19 MR. GORE: Mr. Chair, ladies and
20 gentlemen, I'm Ron Gore with the Department's
21 Air Division and you described the plan
22 changes really well. Basically three years
23 ago we thought when we were handing out

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1 emission, allocations were basically pieces of
2 pie to our electric utilities, that there
3 would not be enough of the pie to go around.
4 Given the changes that have happened to the
5 electric generating industry in the form of
6 more burning of gas, less burning of coal,
7 there are excess pieces of pie to hand out and
8 our Rules do not have any provisions for doing
9 so. So we're asking you to give us the
10 authority to hand out the excess emission
11 allowances or pie if you want to call it
12 that.
13 I'll be glad to answer any
14 questions you might have.
15 DR. MILLER: Does anyone have a
16 question?
17 MR. BROWN: Move to adopt the
18 amendment as described.
19 MR. MASINGILL: Second.
20 DR. MILLER: Okay. Any further
21 discussion? All right. Let's vote on the
22 question. All in favor of the proposed
23 amendment, please say I aye.

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1 COMMISSIONERS: Aye.
2 DR. MILLER: All opposed no. All
3 right. Now we have another agenda item number
4 10, consideration of proposed amendments to
5 ADEM Administrative Code 335-6, the Water
6 Quality Program. I'll just call on the
7 Department rather than reading this long
8 sentence.
9 MR. COBB: I thought you were going
10 to help me out.
11 DR. MILLER: I'll let you read it.
12 MR. COBB: Good morning Members of
13 Commission and Chairman Miller. My name is
14 Steven Cobb and I'm Chief of the ADEM Land
15 Division. Included in the information you've
16 been provided are proposed revisions to the
17 Underground Storage Tank Regulations. The
18 Department is proposing to amend Chapter 15
19 and Chapter 16 of Division 6 Volume 2 of the
20 ADEM Administrative Code. The revisions to
21 the Chapter 15 regulations are being proposed
22 to extend the implementation date for certain
23 of the new testing and equipment requirements

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1 of that program. The EPA provisions provide
2 for state -- provide for state implementation
3 of these requirements allowed for this
4 extension and in fact several other of the
5 Region 4 states have also taken these steps
6 due to the difficulties which are being
7 encountered by owners and operators and their
8 efforts to comply with these new
9 requirements.
10 The revisions to Chapter 16
11 regulations are also being proposed here in
12 amendment to 335-6-16-.09 which establishes
13 the scope of the Tank Trust Fund coverage is
14 proposed and the scope of this trust fund
15 coverage is being amended to provide for an
16 increase to the current indemnification limit
17 from 1.5 million to \$1.75 million per
18 occurrence. These proposed revisions were
19 recommended by the Alabama Underground and
20 Aboveground Storage Tank Trust Fund Management
21 Board and proposed for adoption by the
22 Commission.
23 The public comment period has

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1 been completed. The public hearing was held
2 on September 5th, 2018. There were no
3 comments received during the public comment
4 period and I will be happy to answer any
5 questions that you might have.
6 DR. MILLER: Any questions? Thank
7 you. All right. I'll entertain a motion to
8 adopt this proposed amendment.
9 DR. PERRY: So moved.
10 MR. BROWN: Second.
11 DR. MILLER: All right. Do we have
12 any further discussion? If not the proposed
13 amendment has been proposed and seconded. I'm
14 calling for the question. All in favor say I
15 aye.
16 COMMISSIONERS: Aye.
17 DR. MILLER: All opposed no. Our
18 next item is a hearing officer report from the
19 United States Steel Corporation versus ADEM.
20 This, however, the petitioner has decided to
21 withdraw this request. So no action will be
22 needed on that.
23 Our next meeting at this point is

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1 scheduled to be December 14th, 2018. Does
2 anybody have a conflict that they know of that
3 we could try to rearrange that meeting?
4 Hearing no answer, I think we will just
5 continue on with our plan to meet on December
6 14th.
7 We have two people who have
8 registered with the back-door approach here to
9 make a three-minute presentation to the
10 Commission this morning. We welcome them,
11 Cindy Lowry and Mark Johnston. We'll start
12 with Ms. Lowry.
13 MS. LOWRY: Thank you. I told DR.
14 MILLER that my talk is three and a half
15 minutes. I hope y'all are good with that.
16 I'll talk as fast as I can.
17 The first thing I want to do is
18 just welcome the new Commissioners and
19 introduce myself and my organization. I'm the
20 Executive Director of the Alabama Rivers
21 Alliance, and Alabama Rivers Alliance is a
22 statewide network of groups working together
23 to advocate for sound water policy and its

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1 enforcement. We work together with many
2 organizations across the states who care about
3 our rivers and we interact with the Commission
4 around issues that impact rivers and the lives
5 of Alabamians.
6 Second I want to share my
7 experience of how the environmental community
8 interacts with both ADEM and the Commission to
9 hopefully provide a better understanding of
10 our approach and our intent when we come
11 before you. The recent bribery trial brought
12 to light activities that strengthen long-held
13 perceptions that the Agency and the Commission
14 are more closely aligned with the interest of
15 the regulated industries than with the
16 interest of protecting the environment and
17 public health. Whether you agree or disagree
18 with these perceptions, they exist, and the
19 kind of actions that occurred in the North
20 Birmingham case help validate them.
21 I recognize that there are also
22 perceptions about environmental organizations
23 such as that we are always trying to grab

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1 equally accessed by anyone who is interested
2 in accessing it.
3 Conversations that happen one on
4 one, however well intentioned, are inherently
5 not transparent. We at Alabama Rivers
6 Alliance utilize this public forum at these
7 meetings to share information that we believe
8 is important for the Commission to have. We
9 use the public forum so that everyone, all the
10 Commissioners, agency personnel, industry
11 representatives and the public can hear the
12 information. When delivered and discussed in
13 a public meeting, everyone hears the same
14 information and there's less opportunity for
15 bias and corruption to occur.
16 One-on-one meetings may sometimes
17 be more effective but they are not equally
18 accessed by everyone. Entities with more
19 financial and human resources have a much
20 greater ability to travel around the state, to
21 participate in one-on-one meetings than we do
22 as a very small organization with little time
23 and money for each meetings. But even we have

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1 headlines and that we are always trying to
2 make ADEM look bad. During the last EMC
3 Rulemaking Committee, former Commissioner --
4 Committee Meeting, former Commissioner
5 Richardson made a point to mention that
6 environmental groups seldom took advantage of
7 his open-door policy. He followed that
8 statement by saying that a lot more can happen
9 in a one-on-one meeting than in a public
10 forum. I think his comments brought to light
11 an important disconnect between the
12 Commissions perception and our intent.
13 We believe in and understand the
14 need for one-on-one conversations on occasion
15 to further explain its use or to deepen a
16 conversation. In fact, many of us have
17 utilized this opportunity over the years with
18 various Commissioners. However, we also
19 believe that in an appointed body such as the
20 EMC is accountable for all of the people of
21 Alabama. Any information shared with you or
22 any information used by you to make decisions
23 should be done so in a transparent way that is

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1 a greater access than a member of an impacted
2 community. We supported adding this three-
3 minute time slot during the meetings for that
4 very reason. Members of the public need to be
5 able to come before this Commission. We are
6 grateful to the Commission for agreeing to
7 this.
8 There are a few times that stand
9 out to me, and I've been doing this for almost
10 twenty years now. There are a few times that
11 stand out to me when communication
12 relationships between environmental
13 organizations and the Commission have really
14 worked well to try and solve problems. None
15 of those have come easy and in each instance
16 there was a need to use the public forum and
17 the media to push for an issue to be
18 addressed. But in those instances, such as
19 when we worked to lower the cancer risk
20 allowed into our waterways through changes in
21 water quality standards, the success occurred
22 when the Commission took the time to hear the
23 concerns of the public and environmental

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1 groups and to lead a thoughtful process to
2 study the issue before making a decision.
3 The process was led by the
4 Commission and all interested parties were
5 given a representative at the table alongside
6 scientific expertise. I hope that moving
7 forward you will understand that we use this
8 public forum to ensure the kind of
9 transparency and equal playing field that is
10 needed to feel that our voices are heard.
11 When this is achieved, I think you will find
12 we can successfully solve problems and
13 minimize conflict.
14 I look forward to working with
15 all of you and thanks for letting me speak
16 today.
17 DR. MILLER: Thank you.
18 Mr. Johnston? Mark Johnston? Oh, there you
19 are.
20 MR. JOHNSTON: How are you doing?
21 DR. MILLER: Very good.
22 MR. JOHNSTON: Good morning.
23 COMMISSIONERS: Good morning.

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1 DR. MILLER: I appreciate the
2 opportunity to speak for a few minutes. I'm
3 grateful to all of you for serving on the
4 Commission.
5 My name is Mark Johnston. A
6 little bit about me, I'm a retired priest in
7 the Episcopal church. I live in Poplar
8 Springs in Winston County. My wife Maggie and
9 I live in a little clearing at the end of a
10 mile long road. We have three children and --
11 excuse me, four children and three
12 grandchildren. The three grandchildren are
13 coming to see us this weekend. We have
14 gardens and five dogs and chickens and we just
15 live in paradise in the forest. We are very
16 blessed people.
17 For a long time I have been
18 active in the environmental movement and the
19 public health movement because I believe
20 there's a direct correlation in between the
21 health of the environment and the health of
22 people. I imagine if y'all are serving on the
23 Commission, y'all believe the same sort of

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1 thing. This same sort of understanding that
2 there's a direct correlation between the
3 health of the people and the health of the
4 environment is the cornerstone of the values
5 of the Environmental Defense Alliance. I'm
6 proud to be a board member of the
7 Environmental Defense Alliance and have been
8 on the board of the organization since its
9 inception.
10 On September 27th, we sent the
11 Commission a letter and some recommendations
12 and I want to say that I hope you take -- took
13 those in the spirit of collaboration and in
14 the spirit of your Strategic Plan, your desire
15 to have transparent communications, because to
16 the extent possible, we would like to be -- as
17 an organization to be collaborative and to do
18 everything in our power to help you be the
19 best you can be for the health of the
20 environment and the health of the people in
21 the State of Alabama.
22 Some of you are new and some of
23 you here -- I started to say some of you in

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1 the congregation -- some of you -- I might be
2 retired but it's still in my blood -- this is
3 the letter. It's a short letter. Let me read
4 it for you.
5 Dear Commissioners, in the wake
6 of the testimony and convictions in the United
7 States versus Gilbert, et al., public
8 confidence in the Alabama Environmental
9 Management Commission and the Alabama
10 Department of Environmental Management has
11 been severely shaken, perhaps irrevocably.
12 Traumatic measures must be taken by the
13 Commission if it hopes to restore public
14 confidence. The Environmental Defense
15 Alliance submits the attached recommendations
16 for your consideration and action.
17 So we -- I think all of you -- I
18 don't know if you've seen this or not. We
19 sent four recommendations and each of them
20 have three additional bullets at the bottom.
21 Recommendation one is in the AEMC practice of
22 conducting public business on private email,
23 public business on private email. The second

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1 is to make the AEMC and ADEM's communications
2 transparent, which is one of your goals in
3 your Strategic Plan. Third is to make AEMC
4 and ADEM communications with regulated parties
5 or their representatives public. And finally,
6 four, to reform AEMC and ADEM handling of
7 requests to make public presentations. So
8 there's some detail with this.
9 Commissioner Brown, you were the
10 Commissioner when this was -- you were
11 President of the Commission when this was sent
12 out and the rest of you were here. I'm
13 curious what actions have been taken since we
14 sent out this letter? What actions do you
15 intend to take?
16 MR. LEFLEUR: Mr. Chairman, I might
17 mention that you all have had this for a total
18 of about two weeks and have not met as a group
19 since then and that the matters have been
20 discussed among you individually and any
21 action that would be required would be in the
22 future.
23 MR. JOHNSTON: Yes, sir. Thank you

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1 so much for your time.
2 DR. MILLER: I would like to ask
3 one question.
4 MR. JOHNSTON: Yes, sir.
5 DR. MILLER: I'm just not familiar
6 with the Alabama, what is it, Environmental
7 Defense Alliance. Who are the members of
8 that?
9 MR. JOHNSTON: Well, there are four
10 of us that are on the board. It's Kirsty
11 Bryant and Eva Dillard and Mike Mullins and
12 myself.
13 DR. MILLER: Okay. Are there any
14 other members besides the board members?
15 MR. JOHNSTON: Yeah, we have some
16 people that contribute. Thank you.
17 DR. MILLER: You're welcome. I
18 think that was our last speaker for the day.
19 I'll entertain a motion to adjourn.
20 MR. WALTERS: So moved.
21 DR. PERRY: Seconded.
22 DR. MILLER: All in favor say aye.
23 COMMISSIONERS: Aye.

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1 DR. MILLER: All opposed. All
2 right. We are adjourned.
3
4 (The meeting concluded on October
5 19, 2018 at 11:53 a.m.)
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1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Certified Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 October 19, 2018, I reported the meeting of
8 the Alabama Environmental Management Commission,
9 and that pages 1 through 48 contain a true and
10 accurate transcription of the meeting set out
11 herein.
12 I further certify that I am neither
13 of kin nor of counsel to any of the parties to
14 said cause nor in any manner interested in the
15 results thereof.
16
17
18 /s/Elaine Scott, CCR
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large
22 CCR NO. 354, Expires 9/30/19
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

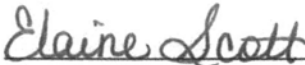
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17  _____

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22

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Part B

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**Attachment 5 Resolution for former Commissioner Terry D. Richardson, Ph.D.
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(Agenda Item 10)**

Attachment 1

AGENDA*
 MEETING OF THE
 ALABAMA ENVIRONMENTAL MANAGEMENT COMMISSION
 DATE: October 19, 2018
 TIME: 11:00 a.m.
 LOCATION: Alabama Department of Environmental Management (ADEM) Building
 Alabama Room (Main Conference Room)
 1400 Coliseum Boulevard
 Montgomery, Alabama 36110-2400

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* The Agenda for this meeting will be available on the ADEM website, www.adem.alabama.gov, under Environmental Management Commission.

** The Minutes for this meeting will be available on the ADEM website under Environmental Management Commission.

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1. CONSIDERATION OF MINUTES OF MEETING HELD ON AUGUST 17, 2018

2. ELECTIONS

The Commission will elect a Commission Chair and Vice Chair.

3. REPORT FROM THE ADEM DIRECTOR

4. REPORT AND POSSIBLE RECOMMENDATION FROM THE STRATEGIC PLANNING AD HOC COMMITTEE REGARDING ADOPTION OF THE DRAFT 2019 AEMC AND ADEM UNIFIED STRATEGIC PLAN BY THE COMMISSION

The Strategic Planning Ad Hoc Committee will provide its report and possibly present a recommendation regarding adoption of the Draft 2019 AEMC and ADEM Unified Strategic Plan by the Commission at the December 14, 2018 AEMC meeting.

5. REPORT FROM THE COMMISSION CHAIR

6. CONSIDERATION OF RESOLUTION FOR FORMER COMMISSIONER TERRY D. RICHARDSON, PH.D.

7. REPORT AND RECOMMENDATION FROM THE PERSONNEL COMMITTEE ON THE ADEM DIRECTOR JOB PERFORMANCE EVALUATION

The Personnel Committee will provide its report and present a recommendation on the ADEM Director Job Performance Evaluation to the Commission for consideration.

8. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE 335-1, GENERAL ADMINISTRATION REGULATIONS (INCLUDES NPDES-RELATED MATTER)

The Commission will consider proposed amendments to ADEM Administrative Code 335-1, General Administration Regulations. Revisions to Division 1 Regulations are being proposed to amend ADEM Administrative Code Rules 335-1-1-.03 and 335-1-1-.07. Revisions to ADEM Administrative Code Rule 335-1-1-.03 would modify language as it related to the membership of the Commission in accordance with Act # 2018-454 (National Well Water Association position) and more accurately represent the location of the Commission records. Revisions to ADEM Administrative Code Rule 335-1-1-.07 would add, modify, and delete appropriate forms. The Department held a public hearing on the proposed amendments on August 8, 2018.

9. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE 335-3, AIR POLLUTION CONTROL PROGRAM REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code 335-3, Air Pollution Control Program Regulations. The Department proposes to amend ADEM Administrative Code Rules 335-3-5-.13, 335-3-8-.14, and 335-3-8-.46. Revisions are proposed to Chapters 335-3-5 and 335-3-8 to incorporate changes to the trading rules to EPA's Cross State Air Pollution Rules (CSAPR) to address distribution of any excess allocations that remain after an existing unit has reached its historic emission cap. Also, changes are proposed to address allocation set-asides for any new NO_x Ozone Season units in Indian country within the State.

Chapters 335-3-5, and 8, are considered part of the federally-enforceable State Implementation Plan (SIP). Revisions to these Chapters are proposed to be incorporated into Alabama's SIP.

The Department held a public hearing on the proposed amendments on August 10, 2018.

10. CONSIDERATION OF PROPOSED AMENDMENTS TO ADEM ADMINISTRATIVE CODE 335-6, WATER QUALITY PROGRAM – UNDERGROUND STORAGE TANK REGULATIONS

The Commission will consider proposed amendments to ADEM Administrative Code 335-6, Water Quality Program – Underground Storage Tank Regulations. Revisions to Volume II of the Division 6 Code are being proposed to implement changes to the Chapter 15 regulations to extend the implementation date for certain new testing and equipment requirements. Revisions to the Chapter 16 regulations are proposed to increase the Trust Fund scope of coverage as recommended by the Alabama Underground and Aboveground Storage Tank Trust Fund Management Board in accordance with the Alabama Underground and Aboveground Storage Tank Trust Fund Act. The Department held a public hearing on the proposed amendments on September 5, 2018.

11. UNITED STATES STEEL CORPORATION V. ADEM, AND BEAZER EAST, INC., INTERVENOR, EMC DOCKET NO. 16-03

The Commission will acknowledge for the record Petitioner United States Steel Corporation's withdrawal of the request for hearing in this matter.

12. OTHER BUSINESS

13. FUTURE BUSINESS SESSION

PUBLIC COMMENT PERIOD

BRIEF STATEMENTS BY MEMBERS OF THE PUBLIC REGISTERED TO SPEAK

Members of the public that wish to make a brief statement at a Commission meeting may do so by first signing in on a register maintained by the Commission office prior to each regularly scheduled meeting. The register will close ten minutes prior to convening each meeting of the Commission. Following completion of all agenda items, the Commission Chair will call on members of the public wishing to make a statement in the order their names appear on the register. Speakers are encouraged to limit their statement to matters that directly relate to the Commission's functions. Speakers will be asked to observe a three minute time limit. While an effort will be made to hear all members of the public signed on the register, the Commission may place reasonable limitations on the number of speakers to be heard. (Guideline 11, Guidelines for Public Comment).

The Guidelines for Public Comment are used in the application of ADEM Administrative Code 335-2, Environmental Management Commission Regulations, Rule 335-2-3-.05, Agenda and Public Participation. The Guidelines for Public Comment serve to educate and inform the public as to how the Commission interprets and intends to apply the Rule. The revised Rule 335-2-3-.05 was effective October 7, 2016.

Attachment 2

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Accept Sam Miller as Chair and

Lanier Brown as Vice Chair

ORDER

This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

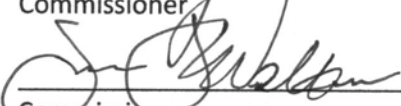
Environmental Management Commission Order
Page 2

ISSUED this 19th day of October 2018.

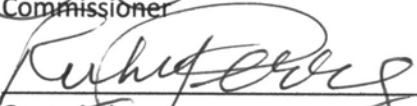
APPROVED:



Commissioner




Commissioner



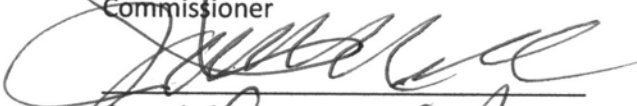
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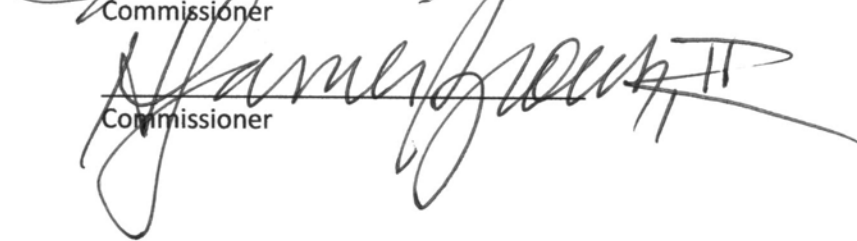
Commissioner



Commissioner



Commissioner



Commissioner


DISAPPROVED:

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of October 2018.



Samuel L. Miller, Chair
Environmental Management Commission
Certified this 19th day of October 2018

Attachment 3



Strategic Plan Foundational Elements

1. Mission, Values, Operating Guidelines
2. Roles of the Commission and Department
3. Vision for Achieving Environmental Results



1. Mission, Values, Operating Guidelines

- ✓ Assure for all citizens of the state a safe, healthful and productive environment



1. Mission, Values, Operating Guidelines

- ✓ Science-based decisions and policies
- ✓ Mutually respecting differing roles of Commission and Department
- ✓ Transparent communication
- ✓ Using resources wisely
- ✓ Acting on agreed upon goals



2. Roles of the Commission and Department

- ✓ Commission and Department differing roles.
- ✓ Commission sets environmental policy:
 - Promulgating rules
 - Hearing appeals of administrative actions
 - Managing the Director of the Department

2. Roles of the Commission and Department

- ✓ Commission and Department differing roles
- ✓ Commission sets environmental policy
- ✓ Department implements policy:
 - Managing permitting,
 - Compliance determinations
 - Enforcement actions

2. Roles of the Commission and Department

- ✓ Commission and Department differing roles
- ✓ Commission sets environmental policy
- ✓ Department implements policy
- ✓ Department provides timely quality information to help Commission set policy



3. Vision for Achieving Environmental Results

- ✓ Air media: attaining federal ambient air quality standards
- ✓ Land media: safely manage solid & hazard waste, cleanup contamination, recycle
- ✓ Water media: attain water quality standards, use classifications, control storm water



Strategic Plan Foundational Elements

1. Mission, Values, Operating Guidelines
2. Roles of the Commission and Department
3. Vision for Achieving Environmental Results



Alabama Department of Environmental Management

Shared AEMC / ADEM Plan Goals

- A. Effective and Responsive Commission
- B. High Performing Work Environment
- C. Credible Relationships with External Stakeholders
- D. Efficient and Effective Departmental Operations



Alabama Department of Environmental Management

Strategies for Achieving Shared Plan Goals

- Effective Commission / Department Communication
- Effectively Address Emerging Issues, New Regulations, and Public Interaction
- Robust Departmental Support for the Commission
- Departmental Focus on Goals
- Maintaining High Quality Departmental Operations
- Taking all necessary steps to assure high levels of regulated industry compliance



EPA 2018-2022 Strategic Plan Goals

- A. Core mission of clean air, land and water and ensure chemical safety
- B. Rebalance the power between Washington and the states to achieve results
- C. Administer the law as Congress intended

Attachment 4

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Consider the Strategic Planning Ad Hoc Committee's recommendation and adoption of the Draft 2019 AEMC and ADEM Unified Strategic Plan at the December 14, 2018 AEMC meeting

ORDER


This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

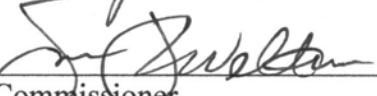
Environmental Management Commission Order
Page 2

ISSUED this 19th day of October 2018.

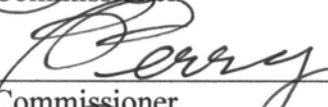
APPROVED:



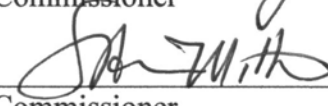
Commissioner




Commissioner




Commissioner




Commissioner



Commissioner



Commissioner



Commissioner


DISAPPROVED:

Commissioner

Commissioner

Commissioner

**This is to certify that this Order is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 19th day of October 2018.**



Samuel L. Miller, Chair
Environmental Management Commission
Certified this 19th day of October 2018

Attachment 5

State of Alabama



RESOLUTION

WHEREAS, Terry D. Richardson, Ph.D. served as a member of the Alabama Environmental Management Commission in the Biologist/Ecologist position from June 2010 until September 2018; and

WHEREAS, he provided experience, wisdom, and foresight in the Commission's deliberations on significant issues; and

WHEREAS, his leadership abilities were recognized by his election as Vice Chair of the Commission, a position he held from June 2017 to September 2018; and

WHEREAS, during his tenure on the Commission, he also served as a Member and Chair of the Rulemaking Committee and Chair of the Strategic Planning Ad Hoc Committee; and

WHEREAS, his steadfast dedication to his service on the Commission will be greatly missed by his fellow Commissioners, the Commission's legal counsel and assistant, leadership and staff of the Alabama Department of Environmental Management, and many within the governmental, regulated, and environmental communities; now

THEREFORE, be it resolved that the Alabama Environmental Management Commission expresses gratitude to TERRY D. RICHARDSON, PH.D. for his significant contribution to a better environment and an improved quality of life for the citizens of Alabama.

DONE this 19th day of October 2018.

Mary Bennett

Samuel L. Miller

George

James Brown

Samuel L. Miller

Sam Miller

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of October 2018.

Samuel L. Miller

Samuel L. Miller, Chair
Environmental Management Commission

Attachment 6

BEFORE THE
ENVIRONMENTAL MANAGEMENT COMMISSION
OF THE
ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

MOTION

Adopt the recommendation of the Personnel Committee

ORDER

This cause having come before the Environmental Management Commission pursuant to the above motion, and having considered the same, the Commission hereby ORDERS, ADJUDGES, and DECREES as follows:

1. That the above motion is hereby adopted; and
2. That pursuant to the adoption of the recommendation of the Personnel Committee, the Personnel Committee Chair is authorized to meet with Director LeFleur regarding the Summary of Written Comments on ADEM Director Job Performance Evaluation and to execute the verification of understanding between the Commission and the Director regarding the evaluation; and
3. That this action has been taken and this Order shall be deemed rendered effective as of the date shown below.

Environmental Management Commission Order
Page 2

ISSUED this 19th day of October 2018.

APPROVED:



Commissioner



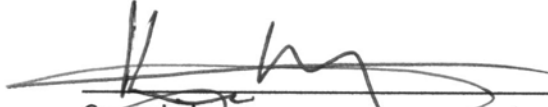
Commissioner



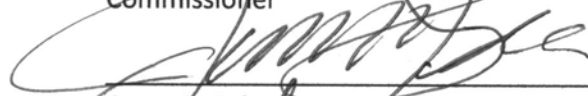
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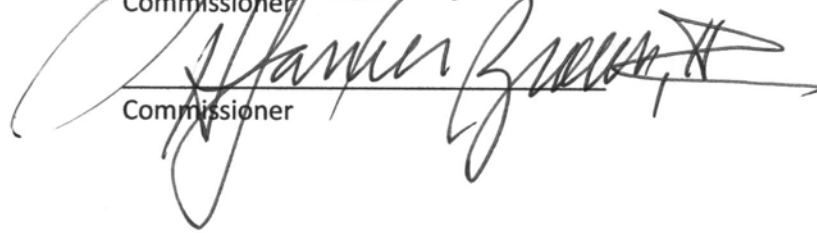
Commissioner



Commissioner



Commissioner



Commissioner


DISAPPROVED:

Commissioner

Commissioner

Commissioner

This is to certify that this Order is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 19th day of October 2018.



Samuel L. Miller, Chair
Environmental Management Commission
Certified this 19th day of October 2018

Attachment 7

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-1 of the Department's Administrative Division – General Administration Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management did not receive any written or oral comments at the public hearing or during the public comment period.





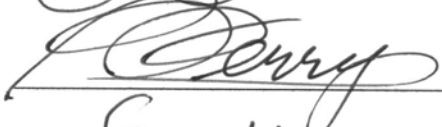
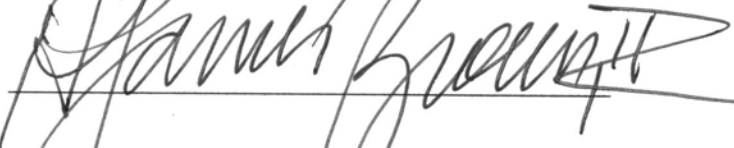
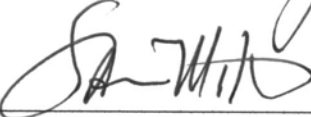
NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-1 [rules 335-1-1-.03/Organization and Duties of the Commission (Amend); 335-1-1-.07/Departmental Forms, Instructions, and Procedures (Amend)]; of the Department's Administrative Division – General Administration rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-1 – General Administration

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of October 2018.

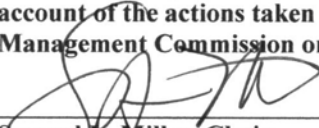
APPROVED:

DISAPPROVED:

_____	_____
_____	_____
_____	_____

This is to certify that this Resolution is a true and accurate account of the actions taken by the Environmental Management Commission on this 19th day of October 2018.



Samuel L. Miller, Chair
Environmental Management Commission
Certified this 19th day of October 2018

ABSTAINED:

_____	_____
-------	-------

335-1-1-.03 Organization and Duties of the Commission.

(1) The Commission is a statutorily-created seven member commission with the following duties:

(a) To select a Director for the Department of Environmental Management and to advise the Director on environmental matters which are within the Department's scope of authority;

(b) To establish, adopt, promulgate, modify, repeal and suspend any rules, regulations, or environmental standards for the Department which may be applicable to the state as a whole or any of its geographical parts;

(c) To develop environmental policy for the state; and

(d) To hear and determine appeals of administrative actions.

(2) The members of the Commission are appointed for six-year terms by the Governor with the advice and consent of the senate. Position qualifications are as follows:

(a) a physician licensed to practice medicine in the State of Alabama who shall be familiar with environmental matters;

(b) a professional engineer registered in the State of Alabama who shall be familiar with environmental matters;

(c) an attorney licensed to practice law in the State of Alabama who shall be familiar with environmental matters;

(d) a chemist possessing as a minimum a bachelor's degree from an accredited university, or a veterinarian licensed to practice veterinary medicine in the State of Alabama, who shall be familiar with environmental matters;

(e) an individual certified by the National Ground Water Association Certification Program or is a professional geologist;

(f) a biologist or an ecologist possessing as a minimum a bachelor's degree from an accredited university with training in environmental matters;

(g) a resident of the state for at least two years; and

(h) members shall meet all requirements of the state ethics law and the conflict of interest provisions of applicable federal laws and regulations.

(3) The Commission meets regularly, at least once every two months, and keeps a complete and accurate record of the proceedings of its meetings, a copy of which is located on the Department's website (www.adem.alabama.gov) under the Environmental Management Commission tab and is open to public inspection.

(4) Beginning with Fiscal Year 2009 as needed for the effective execution of

statutory mandates, and at least every fifth year after the last notice as outlined herein, and in accordance with all applicable statutes and regulations, the Director shall deliver to the Commission a notice of intent to update the Unified Strategic Plan under which the Commission and Department operate. The notice shall contain the Department's summary of departmental goals, timeline for plan development, and a brief explanation of methodology for updating the Unified Strategic Plan. Any and all updates to the Unified Strategic Plan shall be completed within one year of the Director's notice.

(5) Upon receipt of the notice delivered according to paragraph (4) of this rule, the Commission shall appoint a special ad hoc committee to oversee the Department's development and implementation of the planning process.

(6) Any final Unified Strategic Plan produced according to this process shall be approved by the Commission.

Author: Marilyn Elliott; John P. Hagood; Brian C. Espy.

Statutory Authority: Code of Alabama. 1975, §§22-22A-5, 22-22A-6, 22-22A- 8, 41-22-4, 41-22-5.

History: Effective: August 1, 1988. **Amended:** Effective: May 26, 2009. **Amended:** Effective: December 8, 2017. **Amended:** Filed: October 23, 2018; Effective: December 7, 2018.

335-1-1-.07 Departmental Forms, Instructions, and Procedures.

(1) Designation as the State Environmental Control Agency. The Department is the State Environmental Control Agency for the purposes of federal environmental law including the Federal Clean Air Act, 42 U.S.C. 7401 et seq., as amended; the Federal Clean Water Act, 33 U.S.C. 1251 et seq., as amended; the Federal Safe Drinking Water Act, 42 U.S.C. A 201 et seq., as amended. The Department is authorized to take all actions necessary and appropriate to secure the benefits of federal environmental laws. The Department operates in conformity with such federal laws, policies, and procedures, as provided in the Act.

(2) Policies and Procedures. The Commission, through the adoption of rules pursuant to Code of Alabama 1975, § 22-22A-7(c)(6), establishes environmental policies and procedures.

(3) Form and Instructions. The Director may require such forms within the rules as he deems necessary. The content of such forms and instructions for their completion may be prescribed by the Director including the changes of such from time to time. Federal forms as published by the Environmental Protection Agency may be used in lieu of state developed forms. Departmental forms prescribed by the Director shall be identified and numbered as follows:

Name of Forms	Form Number
112(j) Part 1 Applicability Notification	493
ADEM Baseline Monitoring Report Submittal Form	314
ADEM NPDES Pesticide Adverse Incident Report	29
Air Emissions Electronic Reporting System (AEERS) Responsible Official Registration	38
Air Permit Application For Gasoline Dispensing Facilities M-5	197
Alabama Clean Vessel Act Grant Application	517
Alabama Coastal Area Management Program Application for Approval of a Non-Regulated Use ADEM Administrative Code rule 335-8-1-.11 Groundwater Extraction 50 PM or Greater M-1	316
Alabama Hazardous Waste Receipt for Samples and Documents	546
Alabama Hazardous Waste/Used Oil Transporter Permit Application M-1	317
Alabama Recycling Fund Grant Application	9
Alabama Tank Trust Fund Cost Proposal Form M-2	31
Alabama Tank Trust Fund Payment Request Form M-2	32
Alternative Analysis	311
Alternative Medical Waste Treatment Technology Equipment Approval Application	323
NPDES Annual Petroleum Certification M-2	324
Annual Recycling Report	16
Application for a Permit for the Construction for a Motel, Hotel, or Other Multi-Unit Development on a Property Intersected by the Construction Control Line in the Alabama Coastal Area M-2	327

Name of Forms	Form Number
Application for a Permit for the Construction of Single Family Dwellings, Duplexes, or Other Similar Structures on Properties Intersected by the Construction Control Line in the Alabama Coastal Area M-2	328
Application for Alabama Well Driller's License M-1	193
Application for Approval of a Non-Regulated Use in the Alabama Coastal Area Developments and Subdivisions of Property Greater than 5 Acres in Size M-1	329
Application for Name Change or Transfer of Permit or Exemption M-4	330
Asbestos Removal Contractor Certification	497
Birmingham Fuel Supplier Report M-1	494
Boating Infrastructure Grant Application	518
Brownfields Assessment Request Application	550
Brownfields State Revolving Fund Application Form	543
Brownfields State Revolving Fund Pre-Application Form	542
Bulk (Gasoline) Plant Application M-2	331
CAIR Permit Application (for sources covered under a CAIR SIP)	519
Calculation of Total Annualized Project Cost for Private-Sector Projects	313
Calculation of Total Annualized Project Cost for Public-Sector Projects	312
Cargo Tank Tightness Test Report M-1	309
Cathodic Protection Monitoring for Galvanic Systems	545
Cathodic Protection Monitoring Form M-1	332
Chemical Sampling Chain of Custody Form	337
Clean Water State Revolving Fund (CWSRF) Loan Application Form M-2	339
Clean Water State Revolving Fund (CWSRF) Preapplication Form M-3	340
Coalbed Methane Stormwater Inspection Summary Report M-1	343
Coalbed Methane Temporary Pit Wastewater Land Application Certification Report M-1	344
Composting Facility Application	18
Cooling Water Supplemental Information M-2	510
Deactivation Request Form for e-DMR/e-SSO M-1	513
Disposal Approval Request M-1	278
Documentation of Disability Related Needs	533
Drinking Water State Revolving Fund (DWSRF) Loan Application Form M-2	369
Drinking Water State Revolving Fund (DWSRF) Preapplication Form M-3	370
Drinking Water - Application for Approval to Use a Water Supply Well	259
Drinking Water - Chemical Monitoring Data Report M-1	335
Drinking Water - Chemical Monitoring Waiver Application M-1	336
Drinking Water - Community Public Notification Certification Form	345
Drinking Water - Community System Susceptibility Analysis Sheet M-1	346

Name of Forms	Form Number
Drinking Water - Construction Permit Application M-2	488
Drinking Water – Construction Project Update M-1	443
Drinking Water - Consumer Confidence Report Certification Form M-1	347
Drinking Water - Filter Plant Monthly Operational Data Report M-5	242
Drinking Water – Giardia and Virus Profile Spreadsheet M-1	535
Drinking Water - Groundwater System Monthly Operational Data Report M-1	8
Drinking Water - Laboratory Certification Application M-3	442
Drinking Water - Lead and Copper Monitoring Data Report M-1	405
Drinking Water - Maximum Residual Disinfectant Level Input Form (Samples) M-1	408
Drinking Water - Modification Permit Application	489
Drinking Water - Monthly Membrane Surface Plant Operational Data Report M-1	243
Drinking Water - Non-Community Public Notification Certification Form	420
Drinking Water – Notification of Intent to Drill a Water Well	60
Drinking Water - Operational Evaluation Level Exceedance Report M-2	27
Drinking Water - Project Completion Form M-2	444
Drinking Water – Public Water System Information Update M-1	491
Drinking Water - Purchase Water System Monthly Operation Report M-1	185
Drinking Water - Renewal Permit Application M-2	490
Drinking Water - Surface Source Susceptibility Analysis Worksheet M-1	461
Drinking Water - Total Coliform Rule – Level 1 Assessment M-2	36
Drinking Water - Total Coliform Rule – Level 2 Assessment M-2	37
Drinking Water - WTP Quarterly Report for the Disinfectants and Disinfection Byproducts Rule M-2	547
EDMR Daily Discharge Monitoring Report Form	514
EDMR Monthly Discharge Monitoring Report Form	515
EDWRS Lab Registration Form	34
EDWRS Permittee Registration Form	33
EDWRS Terms and Conditions Agreement	35
EHS Notification Form	534
Electronic Signature Agreement (ESA) for e-DMR/e-SSO M-2	512
Emissions Statement Reporting Form M-1	372
Excess Emission Monitoring Report	373
Exemption Claim Form for Cofired Combustors (Appendix H – Division 3) M-1	374
Exemption Claim Form for Incinerators Burning Only Pathological, Low-Level Radioactive, and Chemotherapeutic Waste (Appendix H – Division 3) M-1	375

Name of Forms	Form Number
Gasoline Dispensing Facility Information Survey M-1	378
Gasoline Transport Tank Truck Application M-3	198
General Permit ALR100000 Facility Sign	22
General Permit for Phase II Small Municipal Separate Storm Sewer Systems (MS4) ALNOI M-2	503
General Phase II MS4 Stormwater Permit Renewal Notice of Intent M-1	520
Hydrogeology Unit Evaluation Report Form	531
Impressed Current Cathodic Protection System 60-Day Inspection Log	400
Information Needed for 316(b) Determination in Regards to General NPDES Permits	14
Interior Lining Inspection Form	403
Interior Lining Report Form	404
Joint Application and Notification U. S. Department of Army, Corps of Engineers Alabama Department of Environmental Management M-3	166
Major Source Operation Permit Skeleton Form	495
Manual Interstitial Monitoring Monthly Log	406
Material Safety Data Sheet Reporting	407
Medical Waste Notification Form M-1	410
Medical Waste Transporter Permit Application M-4	411
Medical Waste Treatment Permit Application M-4	412
Municipal Water Pollution Prevention (MWPP) Annual Report (Collection Systems) Package M-1	416
Municipal Water Pollution Prevention (MWPP) Annual Report Package M-3	417
Municipal Water Pollution Prevention Resolution Form	418
MWPP Sewage Sludge Survey M-1	419
No Exposure Certification for Exclusion from NPDES Stormwater Permitting for Industrial Activities	555
Notice of Demolition and/or Asbestos Removal M-2	496
Notice of Intent-General Permit Number ALG870000 M-1	28
Notice of Intent-General Permit Number ALR100000 M-1	24
Notice of Intent-NPDES General Permit Number ALG020000 M-4	387
Notice of Intent-NPDES General Permit Number ALG030000 M-4	393
Notice of Intent-NPDES General Permit Number ALG060000 M-4	396
Notice of Intent-NPDES General Permit Number ALG110000 M-5	380
Notice of Intent-NPDES General Permit Number ALG120000 M-6	381
Notice of Intent-NPDES General Permit Number ALG140000 M-5	382
Notice of Intent-NPDES General Permit Number ALG150000 M-4	383
Notice of Intent-NPDES General Permit Number ALG160000 M-4	384

Name of Forms	Form Number
Notice of Intent-NPDES General Permit Number ALG170000 M-4	385
Notice of Intent-NPDES General Permit Number ALG180000 M-4	386
Notice of Intent-NPDES General Permit Number ALG200000 M-4	388
Notice of Intent-NPDES General Permit Number ALG230000 M-4	389
Notice of Intent-NPDES General Permit Number ALG240000 M-4	390
Notice of Intent-NPDES General Permit Number ALG250000 M-5	391
Notice of Intent-NPDES General Permit Number ALG280000 M-5	392
Notice of Intent-NPDES General Permit Number ALG340000 M-5	394
Notice of Intent-NPDES General Permit Number ALG360000 M-6	395
Notice of Intent-NPDES General Permit Number ALG640000 M-6	522
Notice of Intent-NPDES General Permit Number ALG670000 M-4	397
Notice of Intent-NPDES General Permit Number ALG850000 M-3	26
Notice of Intent-NPDES General Permit Number ALG890000 M-4	498
Notice of Intent-UIC General Permit Number ALIG010000	552
Notice of Intent-UIC General Permit Number ALIG020000	553
Notice of Temporary Closure M-1	310
Notice of Termination – NPDES General Permit Number ALG890000 M-3	499
Notice of Termination – NPDES General Permits (Industrial Activities)	554
Notice of Termination-General Permit Number ALG870000	30
Notification – Above the Threshold Planning Quantities (TPQ) of Extremely Hazardous Substances	424
Notification of Election of Coverage under The Alabama Drycleaning Environmental Response Trust Fund Act M-1	425
Notification of Regulated Waste Activity M-5	8700-12
NOX Budget Permit Application Form	426
NOX Budget Retired Unit Exemption Claim Form	427
NPDES Annual Notice of Registration (NOR)	429
NPDES Coalbed Methane Operation M-3	549
NPDES Construction Stormwater Inspection Report and BMP Certification	23
NPDES Construction Stormwater Noncompliance Notification	25
NPDES Individual Permit Application (Mining Operations) M-5	315
NPDES Individual Permit Application Addendum M-1	376
NPDES Individual Permit Application Minor Permit Modification Addendum M-2	377
NPDES Individual Permit Application Supplementary Information for Publicly-Owned Treatment Works (POTW), Other Treatment Works Treating Domestic Sewage (TWTDS), and Public Water Supply Treatment Plants M-3	188

Name of Forms	Form Number
NPDES Individual Permit Application Supplementary Information for Industrial Facilities M-5	187
NPDES Individual Permit Pollution Abatement / Treatment Measures and Sediment Control Structures Certification Report M-2	432
NPDES Noncoal/Nonmetallic and Dry Processing Less than Five Acres Stormwater Noncompliance Notification Report Form M-2	501
NPDES Noncoal/Nonmetallic Mining and Dry Processing Less than Five Acres Stormwater Inspection Report and BMP Certification M-3	500
NPDES Permitted Coalbed Methane Operations Pollution Abatement/Treatment Measures and Waste Treatment Facilities Certification Report M-1	433
NPDES/SID Non-Compliance Notification Form M-4	421
NPDES/SID Permit Transfer Agreement M-2	466
Open Burning Incident Report	434
Operating Permit Application Facility Identification Form M-5	103
Operator Certification Renewal Form M-1	435
Perc Dry Cleaner Status Update M-1	436
Permit Application for Air Pollution Control Device M-3	110
Permit Application for Compliance Schedule M-1	437
Permit Application for Continuous Emission Monitoring Systems (CEMS)	438
Permit Application for Indirect Heating Equipment M-2	104
Permit Application for Loading and Storage of Organic Compounds M-1	108
Permit Application for Manufacturing or Processing Operation M-4	105
Permit Application for Solvent Metal Cleaning M-1	112
Permit Application for Stationary Internal Combustion Engines M-6	107
Permit Application for Volatile Organic Compound Surface Coating Emission Source M-3	109
Permit Application for Waste Disposal M-2	106
Permit Application of Reclaimed Water Reuse (RWR)	189
Permit Application Solid Waste Disposal Facility M-1	439
Permit Application Solid Waste Disposal Facility Construction/Demolition Landfill M-1	305
Permittee Registration Form for e-DMR/e-SSO M-1	511
Petroleum Solvent Dry Cleaning Questionnaire M-1	440
Plant and Collection System Personnel Inventory	441
Pollution Prevention Survey	548
Processing and Recycling General Information	15
PSD Project Information Form	445
Registration Form for the Construction, Installation, or Modification of an Incinerator M-3	52
Release Information Form	447

Name of Forms	Form Number
Remediation Approval Form M-2	448
Remediation Reporting Form M-2	449
Representative Stormwater Outfall Certification M-3	450
Request for NPDES Permit Post-Mining Discharge Limitations (Coal Mining Operations) M-2	451
Request for Release from NPDES Permit Monitoring and Reporting Requirements (Mining Operations) M-3	452
Request to Remove Subsurface Withdrawal from Discharge Structure (NPDES-Permitted Mining Operations) M-2	453
Request to Remove Treatment Basin/Pond or Other Discharge Structure (NPDES-Permitted Mining Operations) M-3	454
Required Information for Mixing Zone Modeling M-1	455
Sanitary Sewer Overflow (SSO) Event Reporting Form M-4	415
SARA Title III Section 302 Notification	302
Scrap Tire Manifest M-3	536
Scrap Tire Processor Permit Application M-4	540
Scrap Tire Quarterly Report M-4	539
Scrap Tire Registration & Exemption Application M-5	537
Scrap Tire Site Registration	541
Scrap Tire Transporter Permit Application M-5	538
Seal Gap Test Form	184
SID Discharge Monitoring Report Form (Monthly)	457
SID Discharge Monitoring Report Form (Quarterly)	458
Solid Waste Landfill Operator Certification Renewal	13
Solid Waste Landfill Operator Initial Certification Application	11
Solid Waste Landfill Operator Reciprocal Certification Application	12
Solid Waste Profile Sheet M-3	300
Specifications for Air Curtain Incinerators M-1	17
SRF Payment Request Form	459
State Indirect Discharge (SID) Permit Application M-5	186
Supplemental Petroleum Application Information	516
Tank Trust Fund Eligibility / Ineligibility Determination Form	462
Technical Proposal for Qualification as a Large Site Scrap Tire Fund Remediation Center M-1	530
Termination Request-General Permit Number ALR100000 M-1	21
Toxicity Discharge Monitoring Report Form	464
Toxicity Test Report Summary	465
UIC Permit Application for Coal Mining Wastewater M-1	532
UST 3 Year Containment Sump Integrity Test Report	557
UST 3 Year Containment Sump Integrity Test Report (Low Level Method)	556

Name of Forms	Form Number
UST 3 Year Overfill Prevention Equipment Inspection Report	559
UST 3 Year Spill Prevention Equipment (Spill Bucket) Integrity Test Report (Hydrostatic and Vacuum Method) M-2	20
UST 30 Day Walkthrough Inspection Log	558
UST 30 Day Statistical Inventory Reconciliation (SIR) Log M-1	414
UST Annual Probe and Sensor Test Report	560
UST Annual Release Detection Equipment Testing	561
UST Annual Statistical Inventory Reconciliation (SIR) Report Form M-1	326
UST Annual Walkthrough Inspection Checklist Log M-1	19
UST ARBCA Tier 1 Report Forms	471
UST ARBCA Tier 2 Report Forms	472
UST ARBCA Tier 3 Report Forms	473
UST Closure Site Assessment Report Form M-3	474
UST Closure Total Potential VOC Emissions Calculations	492
UST Compatibility Demonstration Log	562
UST Free Product Recovery Report Form	475
UST Groundwater Monitoring Report Form	476
UST Line Leak Detector (LLD) Test Report M-2	551
UST Line Tightness Test Report Form M-2	477
UST Manual Tank Gauging Monthly Log	563
UST Natural Attenuation Monitoring Report Form	478
UST Notice of Intent to Permanently Close Underground Storage Tanks or Piping M-3	422
UST Notice of Proposed UST New Installation or Modification M-4	423
UST Notification for Above Ground Storage Tanks M-3	283
UST Notification for Underground Storage Tanks M-3	279
UST Release Fact Sheet	479
UST Release Report Form M-2	480
UST Site Classification System Checklist	481
UST Statistical Inventory Reconciliation SIR 7 Day Release Investigation Report M-1	460
UST System Effectiveness Monitoring Report Form	482
UST Tank Tightness Test (Vacuum) Report M-1	485
UST Tracer Tank Tightness Test Report Form M-1	483
UST Ullage Tank Tightness Test Report Form M-1	484
UST Underground and Above Ground Storage Tank Transfer of Ownership M-2	469
UST Volumetric Overfill Tank Tightness Test Report Form M-1	486
UST Volumetric Underfill Tank Tightness Test Report Form	487

Name of Forms	Form Number
Visible Emission Field Test Sheet	502
Voluntary Cleanup Program Application	521
Water and Wastewater Operator Exam Application M-1	505
Water and Wastewater Operator Experience Verification M-1	506
Water and Wastewater Operator for Multiple Systems M-1	508
Water and Wastewater Reciprocal Application M-1	507
Water Well Driller Reciprocal Application	194
Water Well Standards Program License Renewal	195

Author: Marilyn Elliott, Russell A. Kelly, Aubrey White, David Hutchinson, Brian Espy.

Statutory Authority: Code of Alabama 1975, §§ 22-22A-5, 22-22A-6, 22-22A-8, 41-22-4, 41-22-5.

History: Effective: August 1, 1988. **Amended:** Effective: August 1, 2002. **Amended:** Effective: January 23, 2003. **Amended:** Effective: August 4, 2004. **Amended:** Effective: January 10, 2006. **Amended:** Effective: July 11, 2006. **Amended:** Effective: November 14, 2006. **Amended:** Effective: January 22, 2008. **Amended:** Effective: January 19, 2009. **Amended:** Effective: January 19, 2010. **Amended:** Effective: January 18, 2011. **Amended:** Effective: November 29, 2011. **Amended:** Effective: November 27, 2012. **Amended:** Effective: May 27, 2014. **Amended:** Effective: July 28, 2015. **Amended:** Effective: August 5, 2016. **Amended:** Effective: October 6, 2017. **Amended:** Filed: October 23, 2018; Effective: December 7, 2018.

Attachment 8

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-3 of the Department's Air Division – Air Pollution Control Program Rules in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management has reviewed the oral and written submissions introduced into the hearing record, and has prepared a concise statement of the principal reasons for and against the adoption of the proposed rules incorporating therein its reasons for the adoption of certain revisions to the proposed rules in response to oral and written submissions, such revisions, where appropriate, having been incorporated into the proposed rules attached hereto; and

WHEREAS, the Environmental Management Commission has considered fully all oral and written submissions respecting the proposed amendments and the Reconciliation Statement prepared by the Alabama Department of Environmental Management.

NOW THEREFORE, pursuant to Ala. Code. §§ 22-27-2, 22-27-7, 22-27-9, 22-27-12 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-3 [335-3-5-.13/TR SO₂ Allowance Allocations (Amend); 335-3-8-.14/TR NO_x Annual Allowance Allocations (Amend); 335-3-8-.46/TR NO_x Ozone Season Group 2 Allowance Allocations (Amend);] of the Department's Air Division – Air Pollution Control Program Rules,

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-3 – Air Pollution Control Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of
October 2018.

APPROVED:

Mary Bennett
J. S. Walton
Dorothy
John White

Th
James Brewster, II

DISAPPROVED:

ABSTAINED:

This is to certify that this Resolution is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 19th day of October 2018.



Samuel L. Miller, Chair
Environmental Management Commission

335-3-5-.13 TR SO₂ Allowance Allocations.

(1) State SO₂ Group 2 Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) SO₂ Group 2 allowances for the control periods 2017 and thereafter is 213,258 tons.

(2) Timing Requirements for SO₂ Group 2 Allowance Allocations.

(a) By June 1, 2016, the Department will submit to the Administrator, in a format prescribed by the Administrator, the SO₂ Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2017 and 2018.

(b) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the SO₂ Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(c) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the SO₂ Group 2 allowance

allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(d) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the SO₂ Group 2 allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) SO₂ Group 2 Allowance Allocations.

apply:

(a) Definitions. For the purpose of this rule, the following definitions

1. Baseline TR SO₂ Group 2 Unit. A TR SO₂ Group 2 unit that either:

(i) Commenced operation on or before January 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014.

2. New TR SO₂ Group 2 Unit. A TR SO₂ Group 2 unit that does not meet the definition of a Baseline SO₂ Group 2 unit as defined in subparagraph (3)(a)1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR SO₂ Group 2 allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2016 will be:

(i) For a Baseline SO₂ Group 2 unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2010, 2011, 2012, 2013, and 2014; or

(ii) For a Baseline TR SO₂ Group 2 unit that did not commence operation on or before January 1, 2014 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New SO₂ Group 2 unit, the expected actual SO₂ heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR SO₂ Group 2 allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2017 will be:

(i) For a Baseline TR SO₂ Group 2 unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR SO₂ Group 2 unit that did not commence operation on or before January 1, 2015 but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR SO₂ Group 2 unit that commenced operation on or before January 1, 2015, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2014 and 2015.

(iv) For a New TR SO₂ Group 2 unit that did not commence operation on or before January 1, 2015, the expected actual SO₂ heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR SO₂ Group 2 allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2018 will be:

(i) For a Baseline TR SO₂ Group 2 unit, the average of the three (or less, if

applicable) highest amounts of the unit's heat input, in which the unit operated in 2012, 2013, 2014, 2015, and 2016.

(ii) For a New TR SO₂ Group 2 unit that commenced operation on or before January 1 2016, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control period in which the unit operated in 2014, 2015, and 2016.

(iii) For a New TR SO₂ Group 2 unit that did not commence operation on or before January 1, 2016, the expected actual annual heat input based on actual utilization data of similar sources.

4. The heat input (in mmBtu) used for calculating TR SO₂ Group 2 allowance allocations under subparagraph (2)(d) of this rule that are to be submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR SO₂ Group 2 unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input, for the control periods in which the unit operated for the five most recent control periods available prior to the deadline submission year.

(ii) For a New TR SO₂ Group 2 unit that commenced operation prior to January 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the

unit's heat input, for the control periods in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New SO₂ Group 2 unit that did not commence operation prior to January 1 of the most recent control period available prior to the submission year, the expected actual annual heat input based on actual utilization data of similar sources.

5. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR SO₂ Group 2 unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) SO₂ Group 2 allowances are initially allocated to baseline TR SO₂ Group 2 units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR SO₂ Group 2 allowances are allocated under paragraph (2) of this rule and shall equal the State SO₂ Group 2 Trading Program Budget minus the total of the Baseline Allowances for all baseline TR SO₂ Group 2 units that have retired in accordance with 335-3-5-.08.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR SO₂ Group 2 allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR SO₂ Group 2 units that have retired in accordance with 335-3-5-.08.

(d) Maximum Historic Emission Cap.

The maximum historic emission cap is identified by using an 8 year historic emission period for each TR SO₂ Group 2 unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under paragraph (3)(b) of this rule. The maximum historic emission cap is the maximum SO₂ emissions (in tons) that occurred during any control period during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR SO₂ Group 2 unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(e) Calculation of TR SO₂ Group 2 Allowances for Baseline TR SO₂ Group 2 Units.

1. For each control period under subparagraph (2) of this rule, the Department will allocate TR SO₂ Group 2 allowances from the Baseline Allowance Pool to all baseline TR SO₂ Group 2 units in accordance with the following procedures:

(i) The Department will allocate TR SO₂ Group 2 allowances to each TR SO₂ Group 2 unit under 335-3-5-.07(1)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the baseline allowance pool. If a TR SO₂ Group 2 unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this rule, then its allocation will equal the maximum historic emission cap for that TR SO₂ Group 2 unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to baseline TR SO₂ Group 2 units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR SO₂ Group 2 allocation value is rounded to the nearest whole ton.

(f) Calculation of SO₂ Allowances for New TR SO₂ Group 2 Units. For each control period under paragraph (2) of this rule, after calculating SO₂ allowances for all baseline TR SO₂ Group 2 units that have not retired in accordance with 335-3-5-.08, the Department will allocate SO₂ allowances in the Retired Unit Allowance Pool to all new SO₂ Group 2 season units, in accordance with the following procedures:

1. For each new TR SO₂ Group 2 unit under 335-3-5-.07(1)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under paragraph (2) of this rule, the number of TR SO₂ Group 2 allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all new TR SO₂ Group 2 units, determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a new TR SO₂ Group 2 unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this rule, then its allocation equals the maximum historic emission cap for that TR SO₂ Group 2 unit .

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to new TR SO₂ Group 2 units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR SO₂ Group 2 allocation value is rounded to the nearest whole ton.

(g) Adjustment of Baseline SO₂ Allowance Allocations. If TR SO₂ Group 2 allowances remain in the Retired Unit Allowance Pool after allocations are made to all new TR SO₂ Group 2 units in accordance with subparagraph (f) of this paragraph, these SO₂ allowances will be allocated on a pro rata basis to the baseline TR SO₂ Group 2 units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(h) SO₂ allowances allocated to baseline TR SO₂ Group 2 units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which SO₂ allowances were allocated. If the unit does not commence operations, the SO₂ allowances will be transferred by the Department pro rata to Baseline TR SO₂ Group 2 units that were allocated SO₂ allowances in accordance with subparagraphs (b)1.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate SO₂ allowance transfers.

1. SO₂ allowances allocated to new TR SO₂ Group 2 units based on heat inputs determined in accordance with subparagraphs (b)1.(iii), (b)2.(iv), (b)3.(iii), or (b)4.(iii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which SO₂ allowances were allocated. If the unit does not commence operations, the SO₂ allowances will be transferred by the Department pro rata to Baseline TR SO₂ Group 2 units that were allocated SO₂ allowances in accordance with subparagraphs (b)1.(i) and (ii), (b)2.(i) and (ii), (b)3.(i), or (b)4.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate SO₂ allowance transfers.

2. SO₂ allowances will not be allocated to TR SO₂ Group 2 units that retire under 335-3-5-.08 prior to the date SO₂ allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this Rule.

3. The total SO₂ Group 2 allowances allocated for any control period in accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State SO₂ Group 2 Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(i) Distribution of remaining TR SO₂ Group 2 Allowances. If any TR SO₂ Group 2 allowances remain after allocations are completed in subparagraphs (e) through (h) of this paragraph, the remaining allowances shall be distributed proportional to the allocations made in subparagraphs (e) through (h) of this paragraph beyond the unit's historical emissions cap. However, no unit may receive additional allocations that exceed any enforcement cap or permit limitation.

(j) Units Incorrectly Allocated TR SO₂ Group 2 Allowances. The procedures for addressing units that were incorrectly allocated TR SO₂ Group 2 allowances are incorporated by reference as they exist in 40 CFR §97.711(c), Subpart DDDDD as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015. **Amended:** Filed: October 23, 2018; Effective: December 7, 2018.

335-3-8-.14 TR NO_x Annual Allowance Allocations.

(1) State Annual Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) NO_x Annual allowances for the control periods 2017 and thereafter is 71,962 tons.

(2) Timing Requirements for NO_x Allowance Allocations.

(a) By June 1, 2016, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2017 and 2018.

(b) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(c) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the annual NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(d) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the annual NO_x allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) NO_x Allowance Allocations.

apply:

Definitions. For the purpose of this rule, the following definitions

1. Baseline TR NO_x Unit. A TR NO_x unit that either:

(i) Commenced operation on or before January 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014.

2. New TR NO_x Unit. A TR NO_x unit that does not meet the definition of a Baseline TR NO_x Unit as defined in subparagraph (3)(a)1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR NO_x allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2016 will be:

(i) For a Baseline TR NO_x unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2010, 2011, 2012, 2013, and 2014; or

(ii) For a Baseline TR NO_x unit that did not commence operation on or before January 1, 2014, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR NO_x unit, the expected actual annual heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR NO_x allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2017 will be:

(i) For a Baseline TR NO_x unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR NO_x unit that did not commence operation on or before January 1, 2015, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before January 1, 2014, the expected actual annual heat input based on actual utilization data of similar sources.

(iii) For a New TR NO_x unit that commenced operation on or before January 1, 2015, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2014 and 2015.

(iv) For a New TR NO_x unit that did not commence operation on or before January 1, 2015, the expected actual annual heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR NO_x allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2018 will be:

(i) For a Baseline TR NO_x unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2012, 2013, 2014, 2015, and 2016.

(ii) For a New TR NO_x unit that commenced operation on or before January 1 2016, the average of the three (or less, if applicable) highest amounts of

the unit's heat input, in which the unit operated in 2014, 2015, and 2016.

(iii) For a New TR NO_x unit that did not commence operation on or before January 1, 2016, the expected actual annual heat input based on actual utilization data of similar sources.

4. The heat input (in mmBtu) used for calculating TR NO_x allowance allocations under subparagraph (2)(d) of this rule that are to be submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR NO_x unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated for the five most recent control periods available prior to the deadline submission year.

(ii) For a New TR NO_x unit that commenced operation prior to January 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the unit's heat input, in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New TR NO_x unit that did not commence operation prior to January 1 of the most recent control period available prior to the submission year, the expected actual annual heat input based on actual utilization data of similar sources.

5. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR NO_x unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) annual NO_x allowances are initially allocated to baseline TR NO_x units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR annual NO_x allowances are allocated under paragraph (2) of this rule and shall equal the State Annual Trading Program Budget minus the total of the Baseline Allowances for all baseline TR NO_x units that have retired in accordance with Rule 335-3-8-.09.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR NO_x allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR NO_x units that have retired in accordance with Rule 335-3-8-.09.

(d) Maximum Historic Emission Cap. The maximum historic emission cap is identified by using an 8 year historic emission period for each TR NO_x unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under paragraph (3)(b) of this rule. The maximum historic emission cap is the maximum NO_x emissions (in tons) that occurred during any control period during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR NO_x unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(e) Calculation of TR NO_x Allowances for Baseline TR NO_x Units.

1. For each control period under paragraph (2) of this rule, the Department will allocate TR NO_x allowances from the Baseline Allowance Pool to all baseline TR NO_x units in accordance with the following procedures:

(i) The Department will allocate TR NO_x allowances to each TR NO_x unit under Rule 335-3-8-.08(1)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the baseline allowance pool. If a TR NO_x unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation will equal the maximum historic emission cap for that TR NO_x unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to baseline TR NO_x units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR NO_x allocation value is rounded to the nearest whole ton.

(f) Calculation of NO_x Allowances for New TR NO_x Units. For each control period under paragraph (2) of this rule, after calculating NO_x allowances for all baseline TR NO_x units that have not retired in accordance with Rule 335-3-8-.9 , the Department will allocate NO_x allowances in the Retired Unit Allowance Pool to all new TR NO_x units, in accordance with the following procedures:

1. For each new TR NO_x unit under Rule 335-3-8-.08(1)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under paragraph (2) of this rule, the number of TR NO_x allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all new TR NO_x units, determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a new TR NO_x unit has an initial historic heat input based allocation that exceeds its

maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation equals the maximum historic emission cap for that TR NO_x unit .

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to new TR NO_x units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR NO_x allocation value is rounded to the nearest whole ton.

(g) Adjustment of Baseline NO_x Allowance Allocations. If TR NO_x allowances remain in the Retired Unit Allowance Pool after allocations are made to all new TR NO_x units in accordance with subparagraph (f) of this paragraph, these NO_x allowances will be allocated on a pro rata basis to the baseline TR NO_x units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(h) NO_x allowances allocated to baseline TR NO_x units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NO_x allowances were allocated. If the unit does not commence operations, the NO_x allowances will be transferred by the Department pro rata to Baseline TR NO_x units that were allocated NO_x allowances in accordance with subparagraph (b)1.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.

1. NO_x allowances allocated to new TR NO_x units based on heat inputs determined in accordance with subparagraphs (b)1.(iii), (b)2.(iv), (b)3.(iii), or (b)4.(iii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NO_x allowances were allocated. If the unit does not commence operation, the NO_x allowances will be transferred by the Department pro rata to Baseline TR NO_x units that were allocated NO_x allowances in accordance with subparagraphs (b)1.(i) and (ii), (b)2.(i) and (ii), (b)3.(i), or (b)4.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic

emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.

2. NO_x allowances will not be allocated to TR NO_x units that retire under Rule 335-3-8-.09 prior to the date NO_x allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this rule.

3. The total NO_x allowances allocated for any control period in

accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State NO_x Annual Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(i) Distribution of remaining TR NO_x Annual Allowances. If any TR NO_x Annual allowances remain after allocations are completed in subparagraphs (e) through (h) of this paragraph, the remaining allowances shall be distributed proportional to the allocations made in subparagraphs (e) through (h) of this paragraph beyond the unit's historical emissions cap. However, no unit may receive additional allocations that exceed any enforcement cap or permit limitation.

(j) Units Incorrectly Allocated TR NO_x Annual Allowances. The procedures for addressing units that were incorrectly allocated TR NO_x Annual allowances are incorporated by reference as they exist in 40 CFR §97.411(c), Subpart AAAAA as of July 1, 2015. (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015. **Amended:** Filed: October 23, 2018; Effective: December 7, 2018.

335-3-8-46 TR NO_x Ozone Season Group 2 Allowance Allocations.

(1) State NO_x Ozone Season Group 2 Trading Program Budget. The State trading budget for annual allocations of Transport Rule (TR) NO_x Ozone Season Group 2 allowances for the control periods 2017 and thereafter is 13,211 tons.

(2) Timing Requirements for TR NO_x Ozone Season Group 2 Allowance Allocations.

(a) By June 1, 2017, the Department will submit to the Administrator, in a format prescribed by the Administrator, the TR NO_x Ozone Season Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2019 and 2020.

(b) By June 1, 2018, the Department will submit to the Administrator, in a format prescribed by the Administrator, the TR NO_x Ozone Season Group 2

allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in 2021 and 2022.

(c) By June 1, 2019, and every other year thereafter, the Department shall submit to the Administrator, in a format prescribed by the Administrator, the TR NO_x Ozone Season Group 2 allowance allocations, in accordance with paragraph (3) of this rule, for the control periods in the two years that are four and five years after the year of the applicable deadline for submission under this paragraph.

(3) TR NO_x Ozone Season Group 2 Allowance Allocations.

apply:

(a) Definitions. For the purpose of this rule, the following definitions

1. Baseline TR NO_x Ozone Season Unit. A TR NO_x Ozone Season Group 2 unit that either:

(i) Commenced operation on or before May 1, 2014; or

(ii) Submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014.

2. New TR NO_x Ozone Season Unit. A TR NO_x Ozone Season Group 2 unit that does not meet the definition of a Baseline TR NO_x Ozone Season unit as defined in subparagraph (3)(a)1. of this paragraph.

(b) Determination of Heat Input.

1. The heat input (in mmBtu) used for calculating TR NO_x Ozone Season Group 2 allowance allocations under subparagraph (2)(a) of this rule that are to be submitted to the Administrator by June 1, 2017, will be:

(i) For a Baseline TR NO_x Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2011, 2012, 2013, 2014, and 2015; or

(ii) For a Baseline TR NO_x Ozone Season unit that did not commence operation on or before May 1, 2014, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014, the expected actual ozone season heat input based on actual utilization data of similar sources.

(iii) For a New TR NO_x Ozone Season unit, the expected actual ozone season heat input based on actual utilization data of similar sources.

2. The heat input (in mmBtu) used for calculating TR NO_x Ozone Season Group 2 allowance allocations under subparagraph (2)(b) of this rule that are to be submitted to the Administrator by June 1, 2018, will be:

(i) For a Baseline TR NO_x Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, in 2012, 2013, 2014, 2015, and 2016; or

(ii) For a Baseline TR NO_x Ozone Season unit that did not commence operation on or before May 1, 2015, but had submitted a permit application to the Department that was affirmatively deemed complete by the Department in writing on or before May 1, 2014, the expected actual ozone season heat input based on actual utilization data of similar sources.

(iii) For a New TR NO_x Ozone Season unit that commenced operation on or before May 1, 2016, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated in 2015 and 2016.

(iv) For a New TR NO_x Ozone Season unit that did not commence operation on or before May 1, 2016, the expected actual ozone season heat input based on actual utilization data of similar sources.

3. The heat input (in mmBtu) used for calculating TR NO_x Ozone Season Group 2 allowance allocations under subparagraph (2)(c) of this rule that are to be submitted to the Administrator by June 1, 2019, and all subsequent allocation years will be:

(i) For a Baseline TR NO_x Ozone Season unit, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated for the five most recent control periods

available prior to the deadline submission year.

(ii) For a New TR NO_x Ozone Season unit that commenced operation prior to May 1 of the most recent control period available prior to the submission year, the average of the three (or less, if applicable) highest amounts of the unit's heat input for the control periods, in which the unit operated, for the five most recent control periods available prior to the submission year; or

(iii) For a New TR NO_x Ozone Season unit that did not commence operation prior to May 1 of the most recent control period available prior to the submission year, the expected actual ozone season heat input based on actual utilization data of similar sources.

4. The unit's total heat input for the control period in each year specified under subparagraph (b) of this paragraph will be determined in accordance with 40 CFR 75 if the TR NO_x Ozone Season Group 2 unit was otherwise subject to the requirements of 40 CFR 75 for the year, or will be based on the best available data reported to the Administrator and the Department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75 for the year.

(c) Establishment of Baseline and Retired Unit Allowance Pools. At the time Transport Rule (TR) NO_x Ozone Season Group 2 allowances are initially allocated to Baseline TR NO_x Ozone Season units under subparagraph (2)(a) of this rule, each unit's allocation will be permanently recorded as that unit's "Baseline Allowance". This value will be used to calculate the following:

1. Baseline Allowance Pool. The Baseline Allowance Pool shall be calculated each time TR NO_x Ozone Season Group 2 allowances are allocated under paragraph (2) of this rule and shall equal the State Ozone Season Group 2 trading program budget minus the total of the Baseline Allowances for all Baseline TR NO_x Ozone Season units that have retired in accordance with 335- 3-8-.41 and minus 13 allowances set aside for any new TR NO_x Oxone Season Group 2 units located in Indian country.

2. Retired Unit Allowance Pool. The Retired Unit Allowance Pool shall be calculated each time TR NO_x Ozone Season Group 2 allowances are allocated under paragraph (2) of this rule and shall equal the sum of the Baseline Allowances for all TR NO_x Ozone Season Group 2 units that have retired in accordance with 335-3-8-.41.

3. Indian Country New Unit Allowance Pool. A total of 13 TR NO_x Ozone Season Group 2 allowances will be initially set aside for any new TR NO_x Ozone Season Group 2 units in Indian country. If the Indian country allowances are not allocated by the Administrator and are made available to the Department for allocation, the allowances will be proportionally distributed, to existing units in the state in accordance with subparagraphs (g) and (i) of this paragraph.

(d) Maximum Historic Emission Cap. The Maximum

Historic Emission Cap is identified by using an 8 year historic emission period for each TR NO_x Ozone Season Group 2 unit. The last year of the 8 year period will be the same year as the last year used for determination of heat input under subparagraph (3)(b) of this paragraph. The Maximum Historic Emission Cap is the maximum NO_x emissions (in tons) that occurred during any control period during the 8 year historic emission period. Data used for this purpose shall be obtained from the EPA Clean Air Markets Division (CAMD). An additional emission cap may be applied if a TR NO_x Ozone Season Group 2 unit has an enforcement action or permit limit in place. The 8 year historic emission values will update every two years to coincide with the allocation control period.

(e) Calculation of TR NO_x Ozone Season Group 2 Allowances for Baseline TR NO_x Ozone Season Units.

1. For each control period under paragraph (2) of this rule, the Department will allocate TR NO_x Ozone Season Group 2 allowances from the Baseline Allowance Pool to all Baseline TR NO_x Ozone Season units in accordance with the following procedures:

(i) The Department will allocate TR NO_x Ozone Season Group 2 allowances to each TR NO_x Ozone Season Group 2 unit under 335-3-8-.40(1)(a) in an amount equaling the unit's share of the State's total 3 year average of heat input determined in accordance with subparagraph (b) of this paragraph, multiplied by the Baseline Allowance Pool. If a TR NO_x Ozone Season Group 2 unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation will equal the maximum historic emission cap for that TR NO_x Ozone Season Group 2 unit.

(ii) Allocations remaining after the application of the maximum historic emission cap are reapportioned on the same basis to Baseline TR NO_x Ozone Season units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Baseline Allocation Pool is allocated. The resulting TR NO_x Ozone Season Group 2 allocation value is rounded to the nearest whole ton.

(f) Calculation of NO_x Allowances for New TR NO_x Ozone Season Units. For each control period under paragraph (2) of this rule, after calculating NO_x allowances for all Baseline TR NO_x Ozone Season units that have not retired in accordance with 335-3-8-.41, the Department will allocate NO_x allowances in the Retired Unit Allowance Pool to all New TR NO_x Ozone Season units, in accordance with the following procedures:

1. For each New TR NO_x Ozone Season unit under 335-3-8-.40(1)(a), that commenced operation or submitted a permit application affirmatively deemed complete by the Department in writing on or before March 1 of the year allocations are to be submitted to the Administrator under paragraph (2) of this rule, the

number of TR NO_x Ozone Season Group 2 allowances allocated for each applicable control period will be equal to the unit's share of the State's total 3 year average of heat input for all New TR NO_x Ozone Season units, determined in accordance with subparagraph (b) of this paragraph multiplied by the Retired Unit Allowance Pool. If a New TR NO_x Ozone Season unit has an initial historic heat input based allocation that exceeds its maximum historic emission cap as defined in subparagraph (3)(e) of this paragraph, then its allocation equals the maximum historic emission cap for that TR NO_x Ozone Season Group 2 unit

2. Allocations remaining after application of the maximum historic emission cap are reapportioned on the same basis to New TR NO_x Ozone Season units whose historic heat input based allocation does not exceed its maximum historic emission cap, if applicable. These steps are repeated until the entire Retired Unit Allowance Pool is allocated or until all new units receive allocations equal to its maximum historic emission cap. The resulting TR NO_x Ozone Season Group 2 allocation value is rounded to the nearest whole ton.

(g) Adjustment of Baseline NO_x Allowance Allocations. If TR NO_x Ozone Season Group 2 allowances remain in the Retired Unit Allowance Pool after allocations are made to all New TR NO_x Ozone Season units in accordance with subparagraph (f) of this paragraph, or if the TR NO_x Ozone Season Group 2 allowances from the Indian Country New Unit Allowance Pool become available for allocation by the Department in accordance with subparagraph (c)3 of this paragraph, these NO_x allowances will be allocated on a pro rata basis to the Baseline TR NO_x Ozone Season units where historic heat input based allocation does not exceed its maximum historic emission cap, for the applicable control periods.

(h) NO_x allowances allocated to Baseline TR NO_x Ozone Season units based on heat inputs determined in accordance with subparagraph (b)1.(ii) or (b)2.(ii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NO_x allowances were allocated. If the unit does not commence operations, the NO_x

allowances will be transferred by the Department pro rata to Baseline TR NO_x Ozone Season units that were allocated NO_x allowances in accordance with subparagraph (b)1.(i) or (b)2.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.

1. NO_x allowances allocated to New TR NO_x Ozone Season units based on heat inputs determined in accordance with subparagraphs (b)1.(iii), (b)2.(iv), (b)3.(iii), or (b)4.(iii) of this paragraph will be held in the State's general account until the unit commences operation, prior to or during the control period for which NO_x allowances were allocated. If the unit does not commence operations,

the NO_x allowances will be transferred by the Department pro rata to Baseline TR NO_x Ozone Season units that were allocated NO_x allowances in accordance with subparagraphs (b)1.(i) and (ii), (b)2.(i) and (ii), (b)3.(i), or (b)4.(i) of this paragraph, and whose historic heat input based allocation does not exceed its maximum historic emission cap if applicable. By January 30 of the following year, the Department shall notify the Administrator of the appropriate NO_x allowance transfers.

2. NO_x allowances will not be allocated to TR NO_x Ozone Season Group 2 units that retire under 335-3-8-.41 prior to the date NO_x allowance allocations are submitted to the Administrator under subparagraphs (2)(a), (b), (c), or (d) of this rule.

3. The total TR NO_x Ozone Season Group 2 allowances allocated for any control period in accordance with subparagraphs (3)(f), and (g) of this paragraph shall not exceed the State Ozone Season Group 2 Trading Program Budget as determined by the applicable, approved State Implementation Plan.

(i) Distribution of remaining TR NO_x Ozone Season Group 2 Allowances. If any TR NO_x Ozone Season Group 2 allowances remain after allocations are completed in subparagraphs (e) through (h) of this paragraph, the remaining allowances shall be distributed proportional to the allocations made in subparagraphs (e) through (h) of this paragraph beyond the unit's historical emissions cap. However, no unit may receive additional allocations that exceed any enforcement cap or permit limitation.

(j) (Units Incorrectly Allocated TR NO_x Ozone Season Group 2 Allowances. The procedures for addressing units that were incorrectly allocated TR NO_x Ozone Season Group 2 allowances are incorporated by reference as they exist in 40 CFR §97.811(c), Subpart EEEEE as of October 26, 2016 (81 FR 74504) except for the provisions found in 40 CFR §§97.811(c)(5)(iii). (The materials incorporated by reference are available for purchase and inspection at the Department's offices.)

Author: Ronald W. Gore.

Statutory Authority: Code of Alabama 1975, §§22-28-10, 22-28-11, 22-28-14, 22-28-18, 22-28-20, 22-28-22, 22-22A-5, 22-22A-6, and 22-22A-8.

History: Effective Date: November 24, 2015. **Amended:** Effective: June 2, 2017.

Amended: Filed: October 23, 2018; Effective: December 7, 2018.

Attachment 9

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

WHEREAS, the Alabama Department of Environmental Management gave notice of a public hearing on the proposed revisions to ADEM Admin. Code 335-6 of the Department's Water Division's Water Quality Program Rules and Regulations in accordance with Ala. Code § 22-22A-8 (2006 Rplc. Vol.) and Ala. Code § 41-22-4 (2000 Rplc. Vol.); and

WHEREAS, a public hearing was held before a representative of the Alabama Department of Environmental Management designated by the Environmental Management Commission for the purpose of receiving data, views and arguments on the amendment of such proposed rules; and

WHEREAS, the Alabama Department of Environmental Management did not receive any written or oral comments at the public hearing or during the public comment period.

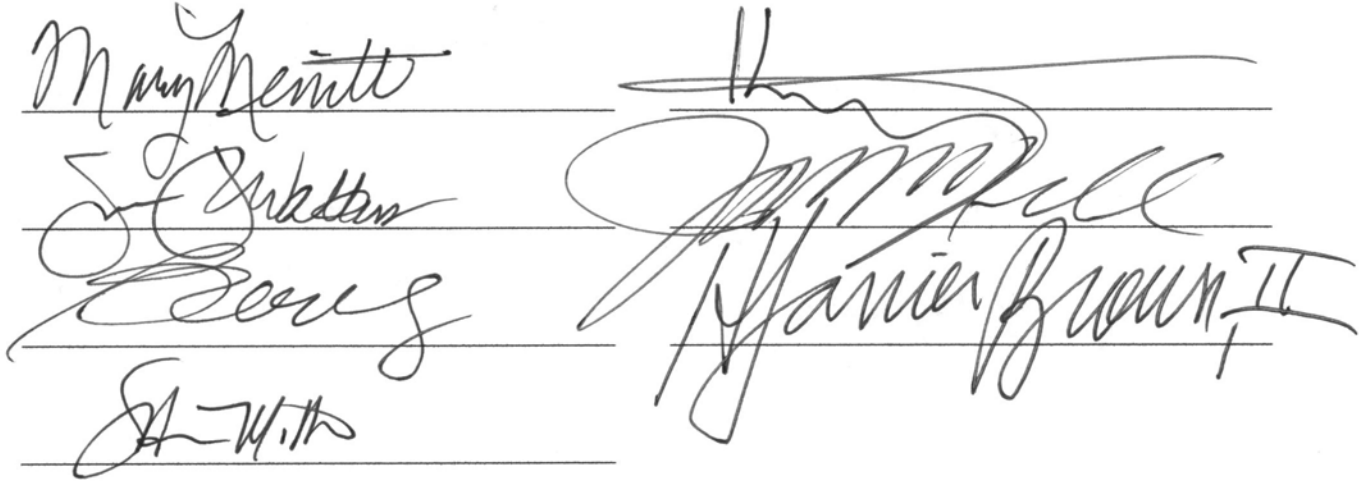
NOW THEREFORE, pursuant to Ala. Code. §§ 22-22A-5, 22-22A-6, 22-22A-8 (2006 Rplc. Vol.), and Ala. Code. § 41-22-5 (2000 Rplc. Vol.), as duly appointed members of the Environmental Management Commission, we do hereby adopt and promulgate these revisions to division 335-6 [rule 335-6-15-.03/Applicability (Amend); 335-6-15-.06/Performance Standards for New UST Systems and Dispensers (Amend); 335-6-15-.09/Operation, Maintenance, and Testing or Inspection of Spill and Overflow Prevention Equipment and Containment Systems; and Walkthrough Inspections (Amend); 335-6-15-.14/General Release Detection Requirements for All UST Systems (Amend); 335-6-15-.18/Methods of Release Detection for Underground Piping (Amend); 335-6-15-.48/UST Systems with Field-Construction Tanks and Airport Hydrant Fuel Distribution Systems (Amend); 335-6-16-.09/Scope of Tank Trust Fund Coverage (Amend)] of the Department's Water Quality Program rules, administrative code attached hereto, to become effective forty-five days, unless otherwise indicated, after filing with the Alabama Legislative Services Agency.

**ENVIRONMENTAL MANAGEMENT COMMISSION
RESOLUTION**

ADEM Admin. Code division 335-6 – Water Quality Program

IN WITNESS WHEREOF, we have affixed our signatures below on this 19th day of
October 2018.


APPROVED:

The 'APPROVED' section contains two columns of handwritten signatures on horizontal lines. The left column has four signatures: 'Mary Bennett', 'J. E. Johnson', 'Beverly', and 'A. M. H.'. The right column has two signatures: 'Samuel L. Miller' and 'Janice Brown, II'.

DISAPPROVED:

ABSTAINED:

This is to certify that this Resolution is a true and accurate
account of the actions taken by the Environmental
Management Commission on this 19th day of October 2018.



Samuel L. Miller, Chair
Environmental Management Commission

335-6-15-.03 Applicability.

(1) The requirements of this chapter apply to all owners and operators of an UST system as defined in rule 335-6-15-.02 except as otherwise provided for in paragraphs (2) and (3) of this rule.

(a) Previously deferred UST systems. UST systems with field-constructed tanks, UST systems with airport hydrant fuel distribution systems, and UST systems that store fuel solely for use by emergency power generators must meet the requirements of this part as follows:

1. UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems must meet the requirements in rule 335-6-15-.48.

2. UST systems that store fuel solely for use by emergency power generators installed before August 6, 2007 must meet rules 335-6-15-.14 through 335-6-15-.19 on or before December 8, 2020.

3. UST systems that store fuel solely for use by emergency power generators installed on or after August 6, 2007 must meet all applicable requirements of rules 335-6-15-.14 through 335-6-15-.19 at installation.

4. If UST systems installed before August 6, 2007 that store fuel solely for use by emergency power generators have new underground piping installed on or after August 6, 2007, the new underground piping is subject to all the rules in this chapter.

(2) Exclusions. The following UST systems are excluded from the requirements of this chapter:

(a) Any UST system holding hazardous wastes listed or identified under division 14 of the ADEM Administrative Code, or a mixture of such hazardous wastes and other regulated substances.

(b) Any wastewater treatment tank system that is part of a wastewater treatment facility regulated under chapter 335-6-5 or 335-6-6 of the ADEM Administrative Code.

(c) Equipment or machinery that contains regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks.

(d) Any UST system whose capacity is 110 gallons or less.

(e) Any UST system that contains a de minimis concentration of regulated substances.

(f) Any emergency spill or overflow containment UST system that is expeditiously emptied after use.

(3) Partial Exclusions. The following UST systems are only subject to rules 335-6-15-.04, 335-6-15-.20 through 335-6-15-.32, and 335-6-15-.43:

(a) Wastewater treatment tank systems not covered in subparagraph (2)(b) of this rule;

(b) Aboveground storage tanks associated with:

1. UST systems with airport hydrant fuel distribution systems regulated under rule 335-6-15-.48; and

2. UST systems with field-constructed tanks regulated under rule 335-6-15-.48;

(c) Any UST system containing radioactive materials that are regulated under the Atomic Energy Act of 1954 (42 USC 2011 and following); and

(d) Any UST system that is part of an emergency generator system at nuclear power generation facilities licensed by the Nuclear Regulatory Commission and subject to Nuclear Regulatory Commission requirements regarding design and quality criteria, including but not limited to 10 CFR part 50.

Author: Sonja Massey, Curt Johnson, Lee Davis.

Statutory Authority: Code of Alabama 1975, § 22-36-3.

History: Effective: April 5, 1989. **Amended:** Effective: October 2, 2003;

Amended: Effective: August 6, 2007; **Amended:** Effective: December 8, 2017;

Amended: Filed: October 23, 2018; Effective: December 7, 2018.

335-6-15-.06 Performance Standards for New UST Systems and Dispensers. In order to prevent releases due to structural failure, corrosion, leakage from submersible pumps and dispensers or spills and overfills for as long as the UST system is used to store regulated substances, all owners and operators of new USTs, underground piping, UST systems and/or dispensers must install this equipment in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory and meet the following requirements:

(a) USTs. USTs installed on August 6, 2007 and thereafter must be manufactured so that any portion of the underground storage tank that is underground and routinely contains product has an inner and outer wall, and interstitial space. The USTs must be designed to allow monitoring of the integrity of both the inner and outer wall, contain a leak into the interstitial space until it is detected and removed, and prevent a release to the environment at any time during its operational life. Each UST must be properly designed and constructed, and any portion in contact with the ground that routinely contains product, as well as the metal outer wall of double wall underground storage tank which is in contact with the ground, must be protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory as specified below:

1. The UST is constructed of fiberglass-reinforced plastic; or
2. The UST is constructed of steel and cathodically protected in the following manner:
 - (i) The UST is coated with a suitable dielectric material;
 - (ii) Field-installed cathodic protection systems are designed by a corrosion expert;
 - (iii) Cathodic protection systems are designed to allow determination of current operating status according to the requirements of rule 335-6-15-.10; and
 - (iv) Cathodic protection systems are operated and maintained in accordance with rule 335-6-15-.10.
3. The UST is constructed of steel and clad or jacketed with a nonmetallic material; or
4. The UST construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements of subparagraphs (a)1. through 3. of this rule.

(b) Underground Piping. All underground piping, other than suction underground piping that meets the requirements specified in rule 335-6-15-.15(b)2.(i), (ii), (iii), (iv), and (v), installed under the ground on August 6, 2007 and

thereafter must be manufactured so that underground piping has an inner and outer wall and interstitial space. Such underground piping must be designed to allow monitoring of the integrity of both the inner and outer wall, contain a leak into the interstitial space until it is detected and removed, and prevent a release to the environment at any time during its operational life. All metal underground piping that routinely contains regulated substances and is in contact with the ground, as well as the metal outer wall of double wall underground piping which is in contact with the ground, must be properly designed, constructed, and protected from corrosion in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory, as specified below:

1. The underground piping is constructed of either a nonmetallic material such as fiberglass-reinforced plastic (rigid) or thermoplastic (flexible). Nonmetallic underground piping installed on January 10, 2006, and thereafter, must meet the requirements of the most current edition of Underwriters Laboratories Inc. Standard for Safety for Nonmetallic Underground Piping for Flammable Liquids, UL 971. Performance claims must be demonstrated by an evaluation properly conducted in accordance with UL 971; or

2. The underground piping is constructed of steel and cathodically protected in the following manner:

(i) The underground piping is coated with a suitable dielectric material;

(ii) Field-installed cathodic protection systems are designed by a corrosion expert;

(iii) Cathodic protection systems are designed to allow determination of current operating status according to the requirements of rule 335-6-15-.10; and

(iv) Cathodic protection systems are operated and maintained in accordance with rule 335-6-15-.10.

3. The underground piping construction and corrosion protection are determined by the Department to be designed to prevent the release or threatened release of any stored regulated substance in a manner that is no less protective of human health and the environment than the requirements in subparagraphs (b)1. and 2. of this rule.

(c) Spill and Overfill Prevention Equipment. Except as provided for in subparagraphs (c)3. and 4. of this rule, to prevent spilling and overfilling associated with product transfer to the UST, owners and operators must use the following spill and overfill prevention equipment or preventive measures in subparagraphs (c)1. and 2. of this rule:

1. Spill prevention equipment that will prevent release of product to the environment when the transfer hose is detached from the fill pipe (for

example, a spill catchment basin) operated and maintained in accordance with rule 335-6-15-.09; and

2. Overfill prevention equipment that will:

(i) Automatically shut off flow into the underground storage tank when the underground storage tank is no more than 95 percent full; or

(ii) Alert the transfer operator when the underground storage tank is no more than 90 percent full by restricting the flow into the underground storage tank or triggering a high-level alarm.

3. Owner and operators are not required to use the spill and overfill prevention equipment specified in subparagraphs (c)1. and 2. of this rule if:

(i) Alternative equipment is used that is determined by the Department to be no less protective of human health and the environment than the equipment specified in subparagraph (c)1. or 2. of this rule; or

(ii) The UST system is filled by transfers of no more than 25 gallons at one time.

4. Flow restrictors used in vent lines may not be used to comply with subparagraph (c)2. of this rule when overfill prevention is installed or replaced on or after December 8, 2017.

5. Spill and overfill prevention equipment must be periodically tested or inspected in accordance with rule 335-6-15-.09(1)(a)1. and (b)1.

(d) Submersible Pump, Under Dispenser, and Piping Transition Containment. USTs installed with submersible pumps on August 6, 2007 and thereafter must have submersible pump containment sumps; new dispenser systems installed on August 6, 2007 and thereafter must have under dispenser containment sumps; and piping transitions installed on or after December 8, 2017 must have containment sumps.

1. The sumps must be operated and maintained in accordance with rule 335-6-15-.09(1)(c). Containment sumps must be designed, constructed, installed, and maintained to:

(i) Be liquid-tight on all sides, bottom and all penetrations to contain leakage and prevent release of regulated substances from equipment related to dispensers and submersible pumps until the regulated substance is detected and removed; and

(ii) Be compatible with the substance conveyed by the underground piping to prevent the release of regulated substances to the environment at any time during the operational life of the UST system; and

(iii) Be able to allow access to the components in the containment sumps, and be periodically visually inspected for evidence of a leakage into the sumps.

(e) Installation. UST systems must be properly installed:

1. Under the supervisory control of an individual or individuals certified in accordance with the requirements in rule 335-6-15-.47;

2. In accordance with codes of practice developed by nationally recognized associations or independent testing laboratories;

3. In accordance with the manufacturer's instructions; and

4. In accordance with plans and specifications required under rule 335-6-15-.08 and reviewed by the Department to include any modifications required to be made by the Department.

(f) The Department reserves the right to inspect an UST system within 30 days of submission of plans or notification of installation prior to the UST system being fully backfilled and placed into operation. The Department may authorize a representative to make this inspection.

Author: Sonja Massey, Curt Johnson, Lee Davis.

Statutory Authority: Code of Alabama 1975, § 22-36-3.

History: Effective: April 5, 1989. **Amended:** Effective: January 10, 2006;

Amended: Effective: August 6, 2007; **Amended:** Effective: April 25, 2008;

Amended: Effective: January 16, 2012; **Amended:** Effective: April 1, 2014;

Amended: Effective: December 8, 2017; **Amended:** Filed: October 23, 2018;

Effective: December 7, 2018.

335-6-15-.09 Operation, Maintenance, and Testing or Inspection of Spill and Overfill Prevention Equipment and Containment Systems; and Walkthrough Inspections.

(1) Owners and operators of UST systems must comply with the following operation, maintenance, and testing or inspection requirements for spill prevention equipment, overfill prevention equipment, and containment sumps and sensors to ensure that releases due to leaking, spilling or overfilling do not occur; submit testing and inspection results in accordance with rule 335-6-15-.13(a)5.; and keep testing and inspection records in accordance with rule 335-6-15-.13(b)5.; unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

(a) Spill Prevention Equipment. Spill prevention equipment must be periodically checked in accordance with the walkthrough inspection requirements in paragraph (2) of this rule and meet the following requirements:

1. Single walled spill prevention equipment shall be tested for leakage to ensure the equipment is liquid tight by using vacuum, pressure, or liquid testing at least once every three years, or upon repair or replacement, using one of the following options:

(i) Testing requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(ii) Test methods from a code of practice developed by a nationally recognized association or independent testing laboratory; or

(iii) Testing requirements determined by the Department to be no less protective of human health and the environment than the testing requirements listed in subparagraphs (1)(a)1.(i) and (ii) of this rule.

2. Double walled spill prevention equipment with an interstitial space shall have the integrity of both walls periodically checked in accordance with the walkthrough inspection requirements in paragraph (2) of this rule. If this periodic checking is discontinued, owners and operators must begin using one of the testing options provided for single walled spill catchment basins in subparagraph (1)(a)1. of this rule and conduct a test within 30 days.

3. Spill prevention equipment must be emptied before the transfer of regulated substance to the underground storage tank so that all the volume is available to contain a spill. If a breach in the spill prevention equipment is visible or if a spill prevention equipment leak test fails, it must be repaired or replaced prior to receiving any further deliveries of a regulated substance.

4. When a regulated substance is being released or is suspected to have been released from spill prevention equipment to the surrounding surface or subsurface, notify the Department of a suspected release in accordance with rule 335-6-15-.20.

(b) Overfill Prevention Equipment. Overfill prevention equipment in use before December 8, 2017, shall be inspected not later than December 8, 2020 and at least once every three years thereafter; when brought into use on or after December 8, 2017, shall be inspected upon installation and at least once every three years thereafter; and must meet the following inspection requirements:

1. At a minimum, the inspection must ensure that overfill prevention equipment is set to activate at the correct level specified in rule 335-6-15-.06(c)2. and will activate when regulated substance reaches that level. Inspections must be conducted using one of the following options:

(i) Inspection requirements developed by the manufacturer (Note: Owners and operators may use this option only if the manufacturer has developed requirements);

(ii) Inspection methods from a code of practice developed by a nationally recognized association or independent testing laboratory; or

(iii) Inspection requirements determined by the Department to be no less protective of human health and the environment than the inspection requirements listed in subparagraphs (1)(b)1.(i) and (ii) of this rule.

2. Owners and operators must ensure that the volume available in the underground storage tank is greater than the volume of product to be transferred to the underground storage tank before the transfer is made and that the transfer operation is monitored constantly to prevent overfilling and spilling.

(c) Under Dispenser, Submersible Pump, and Other UST System Containment Sumps. These containment sumps must be periodically checked in accordance with the walkthrough inspection requirements in paragraph (2) of this rule and meet the following requirements:

1. When a regulated substance is discovered in a containment sump:

(i) Remove the regulated substance within 24 hours; any regulated substance which is removed must be disposed of in accordance with all state of Alabama requirements; and

(ii) Repair or replace any necessary equipment to prevent further leakage of regulated substance into the containment sump within a time period acceptable to the Department, and immediately after repair or replacement, test the sump for leakage to ensure it is liquid tight in accordance with one of the vacuum, pressure, or liquid testing options provided in subparagraphs (1)(a)1.(i),(ii), (iii) of this rule within a time period acceptable to the Department.

2. When a regulated substance is being released or is suspected to have been released from a containment sump to the surrounding surface or subsurface:

(i) Shut off the submersible pump; and

(ii) Notify the Department of a suspected release in accordance with rule 335-6-15-.20.

3. Containment sumps used for interstitial monitoring of underground piping must be maintained so that they continuously remain free of water, regulated substance and debris,

4. The operation of any liquid sensors in a containment sump used for interstitial monitoring of underground piping must be tested annually to ensure that they are working properly. Beginning December 8, 2017, testing must be conducted in accordance with one of the testing options provided in subparagraphs (1)(a)1.(i),(ii), (iii) of this rule.

5. Breaches discovered in a containment sumps used for interstitial monitoring of underground piping which may result in a release of a regulated substance must immediately be repaired or the containment sump replaced. After repair or replacement, the containment sump must be tested using a vacuum, pressure or liquid method in accordance with one of the options provided in subparagraphs (1)(a)1.(i), (ii), or (iii) of this rule to ensure the sump is liquid tight.

6.

Beginning December 8, 2020 for UST systems in use before December 8, 2017 and beginning upon installation for UST systems brought into use on or after December 8, 2017, all containment sumps used for interstitial monitoring of underground piping must prevent releases to the environment by meeting one of the following:

(i) To ensure single walled containment sumps used for interstitial monitoring of underground piping are liquid tight, those installed prior to December 8, 2017 must have an initial test not later than December 8, 2020 and must be tested at least once every three years thereafter, and those brought into use on or after the December 8, 2017 must be tested upon installation and be tested at least once every three years thereafter. Testing must be conducted using a vacuum, pressure, or liquid method in accordance with one of the options provided in subparagraphs (1)(a)1.(i), (ii), or (iii) of this rule; or

(ii) When containment sumps used for interstitial monitoring of underground piping are double walled, the integrity of both walls must be periodically checked in accordance with the walkthrough inspection requirements in subparagraph (2) of this rule. If this periodic checking is discontinued, owners and operators must begin using one of the testing options provided for single walled containment sumps in subparagraph (1)(c)6.(i) of this rule and conduct a test within 30 days.

(2) Walkthrough Inspections. To properly operate and maintain UST systems, owners and operators of UST systems must conduct walkthrough

inspections beginning not later than October 13, 2018 and thereafter. Conduct walkthrough inspections in accordance with either subparagraphs (2)(a), and (2)(b) or (c) of this rule and keep inspection records in accordance with rule 335-6-15-.13(b)11., unless a UST system is temporarily closed in accordance with rule 335-6-15-.33.

(a) Conduct a walkthrough inspection that, at a minimum, checks the following equipment as specified in subparagraphs (2)(a)1. and 2. of this rule:

1. Every 30 days (Exception: spill prevention equipment at UST systems receiving deliveries at intervals greater than every 30 days may be checked prior to each delivery):

(i) Visually check spill prevention equipment for damage; remove liquid or debris; check for and remove obstructions in the fill pipe; check the fill cap to make sure it is securely on the fill pipe; and for double walled spill prevention equipment with interstitial monitoring, also check the integrity of both walls by checking for leakage in the interstitial space, and

(ii) Check to make sure the release detection equipment is operating with no alarms or other unusual operating conditions present; and ensure records of release detection testing are reviewed, passing and current, and

2. Annually:

(i) Visually check all containment sumps for damage or leaks to the containment area, or releases to the environment, and remove liquid or debris; and for double walled sumps with interstitial monitoring, also check the integrity of both walls by checking for leakage in the interstitial space, and

(ii) Check hand held release detection equipment devices such as tank gauge sticks or groundwater bailers for operability and serviceability;

(b) Conduct operation and maintenance walkthrough inspections according to a standard code of practice developed by a nationally recognized association or independent testing laboratory that checks equipment comparable to that indicated in subparagraph (2)(a) of this rule; or

(c) Conduct operation and maintenance walkthrough inspections developed by the Department that checks equipment comparable to that indicated in subparagraph (2)(a) of this rule.

(3) The owner and operator must report, investigate, and clean up any leaks, spills and overfills in accordance with rule 335-6-15-.23.

Author: Sonja Massey, Curt Johnson, Lee Davis.

Statutory Authority: Code of Alabama 1975, § 22-36-3.

History: Effective: April 5, 1989; **Amended:** Effective: August 6, 2007;

Amended: Effective: January 16, 2012; **Amended:** Effective: April 1, 2014;

Amended: Effective: December 8, 2017; **Amended:** Filed: October 23, 2018;
Effective: December 7, 2018.

335-6-15-.14 General Release Detection Requirements for All UST Systems.

(1) Owners and operators of UST systems must provide a method, or combination of methods, of release detection that:

(a) Can detect a release from any portion of the underground storage tank and the connected underground piping that routinely contains product;

(b) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks for operability or running condition;

(c) Is operated and maintained, and electronic and mechanical components are tested for proper operation, in accordance with one of the following: manufacturer's instructions; a code of practice developed by a nationally recognized association or independent testing laboratory; or requirements determined by the Department to be no less protective of human health and the environment than the two options listed above. A test of the proper operation must be performed at least annually and must cover the following components and criteria:

1. Automatic Tank Gauge and Other Controllers. Beginning on October 13, 2018 and thereafter; test alarm, verify system configuration, test battery backup;

2. Probes and Sensors. Beginning on October 13, 2018 and thereafter; inspect for residual buildup, ensure floats move freely, ensure shaft is not damaged, ensure cables are free of kinks and breaks, test alarm operability and communication with controller, ensure that they are positioned properly;

3. Automatic Line Leak Detector. Test operation to meet criteria in rule 335-6-15-.18(a) by simulating a leak;

4. Vacuum Pumps and Pressure Gauges. Beginning on October 13, 2018 and thereafter; ensure proper communication with sensors and controller; and

5. Hand-held Electronic Sampling Equipment Associated with Groundwater and Vapor Monitoring. Beginning on October 13, 2018 and thereafter; ensure proper calibration and operation.

(d) Meets the performance requirements in rules 335-6-15-.17, 335-6-15-.18, or 335-6-15-.48, as applicable, with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. In addition, the methods must be capable of detecting the leak rate or quantity specified for that method in rules 335-6-15-.17(b), (c), (d), (h) and (i), 335-6-15-.18(a) and (b), and 335-6-.48 with a probability of detection of 0.95 and a probability of false alarm of 0.05.

(2) When a release detection method operated in accordance with the performance standards in rules 335-6-15-.17, 335-6-15-.18, or 335-6-15-.48 indicates a release may have occurred, owners and operators must notify the Department in accordance with rule 335-6-15-.20.

(3) Any UST system that cannot apply a method of release detection that complies with the requirements of this chapter must temporarily close the UST system in accordance with rule 335-6-15-.33 and must permanently close the UST system in accordance with rules 335-6-15-.34 through 335-6-15-.37 except as follows:

(a) For UST systems storing fuel solely for the use of emergency power generators installed before August 6, 2007, paragraph (3) of this rule applies beginning on December 8, 2020 and thereafter. For UST systems with field-constructed tanks, and UST systems with airport hydrant fuel distribution systems, paragraph (3) of this rule applies beginning on October 13, 2018 and thereafter.

(4) Owners or operators of UST systems storing fuel solely for the use of emergency power generators installed before August 6, 2007, UST systems with airport hydrant fuel distribution systems, and UST systems with field-constructed tanks shall submit to the Department a description of the type of release detection method or methods which will be used at each site at which the UST system is located. This description and any required plans and specifications required by rule 335-6-15-.08 shall be submitted 30 days prior to the implementation of release detection requirements for these systems as described in rules 335-6-15-.03(1)(a)1. and 2.

(5) Release detection on UST systems employing vapor monitoring, groundwater monitoring, or interstitial monitoring using a secondary barrier, shall be installed in accordance with the plans and specifications required by rule 335-6-15-.08.

Author: Sonja Massey, Curt Johnson, Lee Davis.

Statutory Authority: Code of Alabama 1975, § 22-36-3.

History: Effective: April 5, 1989. **Amended:** Effective: October 2, 2003;

Amended: Effective: April 25, 2008; **Amended:** Effective: December 8, 2017;

Amended: Filed: October 23, 2018; Effective: December 7, 2018.

335-6-15-.18 Methods of Release Detection for Underground Piping. Each method of release detection for underground piping used to meet the requirements of rule 335-6-15-.15 must be conducted in accordance with the following:

(a) Automatic line leak detectors. Methods which alert the operator to the presence of a leak by restricting or shutting off the flow of regulated substances through underground piping may be used. Beginning August 6, 2008 and thereafter, methods which alert the operator to the presence of a leak by triggering an audible or visual alarm may be used only if they also restrict or shut off the flow of regulated substances through underground piping; except beginning December 8, 2017, emergency power generator UST systems may use audible or visual alarm methods without restricting or shutting off flow. All automatic line leak detector methods must detect leaks of 3 gallons per hour at 10 pounds per square inch line pressure within 1 hour. An annual test of the operation of the leak detector must be conducted in accordance with rule 335-6-15-.14(1)(c).

(b) Line tightness testing. A periodic test of underground piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half times the operating pressure. When a test method is required by the manufacturer to be performed manually, the test must be performed by an individual having current certification of training from the manufacturer of the test method.

(c) Underground storage tank methods applicable to piping. Except as described in rule 335-6-15-.15(a), any of the methods in rule 335-6-15-.17(e) through (i) may be used if they are designed to detect a release from any portion of the underground piping that routinely contains regulated substances.

Author: Sonja Massey, Curt Johnson, Lee Davis.

Statutory Authority: Code of Alabama 1975, § 22-36-3.

History: Effective: April 5, 1989. **Amended:** Effective: August 6, 2007;

Amended: Effective: April 1, 2014; **Amended:** Effective: December 8, 2017;

Amended: Filed: October 23, 2018; Effective: December 7, 2018.

335-6-15-.48 UST Systems with Field-Constructed Tanks and UST Systems with Airport Hydrant Fuel Distribution Systems.

(1) Except as provided in paragraph (2) of this rule, owners and operators of UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems must comply with the requirements of this chapter.

(a) For UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems installed before December 8, 2017, the requirements are effective according to the following schedule:

Requirement	Effective Date
Notification (rule 335-6-15-.05)	<i>December 8, 2018</i>
Upgrading (rule 335-6-15-.07 and this rule)	October 13, 2018
General Operating Requirements (rules 335-6-15-.09 through 335-6-15-.13 and this rule)	October 13, 2018
Release Detection (rules 335-6-15-.14 through 335-6-15-.19 and this rule)	October 13, 2018
Release Reporting, Response, and Investigation (rules 335-6-15-.20 through 335-6-15-.32)	<i>December 8, 2017</i>
Closure (rules 335-6-15-.34 through 335-6-15-.37)	<i>December 8, 2017</i>
Financial Responsibility (rules 335-6-15-.43 through 335-6-15-.44 and this rule)	October 13, 2018
Operator Training (rule 335-6-15-.46)	October 13, 2018

(b) For UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems installed on or after December 8, 2017, all the requirements of this chapter apply at installation.

(c) In addition to codes of practice developed by nationally recognized associations or independent testing laboratories allowed in rule 335-6-15-.06, owners and operators of UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems may also use military construction criteria when designing, constructing, and installing UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems.

(2) Owners and operators of UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems must comply with the following additions, exceptions, and alternatives.

(a) Exception to piping secondary containment requirements. Owners and operators may use single walled underground piping when installing underground piping associated with UST systems with field-constructed tanks with a nominal capacity greater than 50,000 gallons, and underground piping associated with UST systems with airport hydrant fuel distribution systems. Underground piping associated with UST systems with field-constructed tanks less than or equal to a nominal capacity of 50,000 gallons and not part of an UST system with airport hydrant fuel distribution system must meet the secondary containment requirements in rule 335-6-15-.06(b) at installation.

(b) Upgrade requirements for UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems where installation commenced before December 8, 2017. These UST systems must meet the following upgrade requirements no later than October 13, 2018, or be permanently closed in accordance with rules 335-6-15-.34 through 335-6-15-.37 of this chapter:

1. Corrosion protection. UST system components in contact with the ground that routinely contain regulated substances must meet one of the following:

(i) Except as provided in subparagraph (2)(a) of this rule, the UST system performance standards for new underground storage tanks in rule 335-6-15-.06(a) and for new underground piping in rule 335-6-15-.06(b); or

(ii) Be constructed of metal and cathodically protected according to a code of practice developed by a nationally recognized association or independent testing laboratory and meet the following:

(I) The cathodic protection requirements in rule 335-6-15-.06(a)2.(ii), (iii), and (iv) for underground storage tanks, and rule 335-6-15-.06(b)2.(ii), (iii), and (iv) for underground piping,

(II) Underground storage tanks greater than 10 years old without cathodic protection must be assessed to ensure the underground storage tank is structurally sound and free of corrosion holes prior to adding cathodic protection in accordance with a code of practice developed by a nationally recognized association or independent testing laboratory. The assessment must be by internal inspection or another method determined by the Department to adequately assess the underground storage tank for structural soundness and corrosion holes.

2. Spill and overflow prevention. To prevent spilling and overflowing associated with product transfer to the UST system, all UST systems with field-constructed tanks and all UST systems with airport hydrant fuel

distribution systems must comply with the spill and overfill prevention equipment requirements specified in rule 335-6-15-.06(c).

(c) Walkthrough inspections. In addition to the walkthrough inspection requirements in rule 335-6-15-.09(2), owners and operators must inspect the following additional areas for UST systems with airport hydrant fuel distribution systems at least once every 30 days if confined space entry according to the Occupational Safety and Health Administration (see 29 CFR part 1910) is not required or at least annually if confined space entry is required, and keep documentation of the walkthrough inspection in accordance with rule 335-6-15-.13(b)11:

1. Hydrant pits – visually check for any damage; remove any liquid or debris; and check for any leaks, and
2. Hydrant piping vaults – check for any hydrant piping leaks.

(d) Methods of release detection for UST systems with field-constructed tanks. Owners and operators of UST systems with field-constructed tanks with a capacity less than or equal to 50,000 gallons must meet the release detection requirements in rules 335-6-15-.14 through 335-6-15-.19. Owners and operators of UST systems with field-constructed tanks with a capacity greater than 50,000 gallons must meet either the requirements in rules 335-6-15-.14 through 335-6-15-.19 (except rule 335-6-15-.17(e) and (f) must be combined with inventory control as stated in subparagraph (2)(d)5. of this rule) or use one or a combination of the following alternative methods of release detection:

1. Conduct an annual tank tightness test in accordance with rule 335-6-15-.17(c) except that the test equipment must be able to detect a 0.5 gallon per hour leak rate;
2. Use an automatic tank gauging system to perform release detection performed at least every 30 days in accordance with rule 335-6-15-.17(d) except that the test equipment must be able to detect a leak rate less than or equal to one gallon per hour. This method must be combined with a tank tightness test performed at least every three years in accordance with rule 335-6-15-.17(c) except that the test equipment must be able to detect a 0.2 gallon per hour leak rate;
3. Use an automatic tank gauging system to perform release detection performed at least every 30 days in accordance with rule 335-6-15-.17(d) except that the test equipment must be able to detect a leak rate less than or equal to two gallons per hour. This method must be combined with a tank tightness test performed at least every two years in accordance with rule 335-6-15-.17(c) except that the test equipment must be able to detect a 0.2 gallon per hour leak rate;
4. Perform vapor monitoring at least every two years in accordance with rule 335-6-15-.17(e) for a tracer compound placed in the underground storage tank system capable of detecting a 0.1 gallon per hour leak rate;

5. Perform inventory control at least every 30 days conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures that can detect a leak equal to or less than 0.5 percent of flow-through; and

(i) Perform a tank tightness test at least every two years in accordance with rule 335-6-15-.17(c) except that the test equipment must be able to detect a 0.5 gallon per hour leak rate; or

(ii) Perform vapor monitoring or groundwater monitoring at least every 30 days conducted in accordance with rule 335-6-15-.17(e) or (f), respectively, for the stored regulated substance.

6. Use another method approved by the Department if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subparagraphs (2)(d)1. through 5. of this rule. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability of detection.

(e) Methods of release detection for underground piping. Owners and operators of underground piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons must meet the release detection requirements in rules 335-6-15-.14 through 335-6-15-.19. Owners and operators of underground piping associated with UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems greater than 50,000 gallons must follow either the requirements in rules 335-6-15-.14 through 335-6-15-.19 (except rule 335-6-15-.17(e) and (f) must be combined with inventory control as stated in subparagraph (2)(e)3. of this rule) or use one or a combination of the following alternative methods of release detection:

1. Perform a semiannual or annual line tightness test in accordance with rule 335-6-15-.18(b) except that the test equipment must be able to perform a test at or above the underground piping operating pressure in accordance with the table below:

Maximum Leak Detection Rate Per Test Section Volume		
Test Section Volume (Gallons)	Semiannual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)	Annual Test - Leak Detection Rate Not To Exceed (Gallons Per Hour)
< 50,000	1.0	0.5
≥ 50,000 to < 75,000	1.5	0.75
≥ 75,000 to < 100,000	2.0	1.0
≥ 100,000	3.0	1.5

And underground piping segment volumes greater than or equal to 100,000 gallons not capable of meeting the maximum 3.0 gallon per hour leak rate for the semiannual test may be tested at a leak rate up to 6.0 gallons per hour according to the following schedule:

Phase In For Underground Piping Segments \geq 100,000 Gallons In Volume	
First test	Not later than October 12, 2018 (may use up to 6.0 gph leak rate)
Second test	Between October 12, 2018 and October 12, 2021 (may use up to 6.0 gph leak rate)
Third test	Between October 12, 2021 and October 12, 2022 (must use 3.0 gph for leak rate)
Subsequent tests	After October 12, 2022 (begin using semiannual or annual line testing according to the <i>Maximum Leak Detection Rate Per Test Section Volume</i> table above)

2. Perform vapor monitoring at least every two years in accordance with rule 335-6-15-.17(e) for a tracer compound placed in the underground storage tank system capable of detecting a 0.1 gallon per hour leak rate;

3. Perform inventory control at least every 30 days conducted in accordance with Department of Defense Directive 4140.25; ATA Airport Fuel Facility Operations and Maintenance Guidance Manual; or equivalent procedures that can detect a leak equal to or less than 0.5 percent of flow-through; and

(i) Perform a line tightness test at least every two years conducted in accordance with rule 335-6-15-.18(b) and subparagraph (2)(e)1. of this rule using the leak rates for the semiannual test; or

(ii) Perform vapor monitoring or groundwater monitoring at least every 30 days conducted in accordance with rule 335-6-15-.17(e) and (f), respectively, for the stored regulated substance;

4. Use another method approved by the Department if the owner and operator can demonstrate that the method can detect a release as effectively as any of the methods allowed in subparagraphs (2)(e)1. through 3. of this rule. In comparing methods, the Department shall consider the size of release that the method can detect and the frequency and reliability of detection.

(f) Recordkeeping for release detection. Owners and operators of UST systems with field-constructed tanks and UST systems with airport hydrant fuel distribution systems must maintain release detection records according to the recordkeeping requirements in rule 335-6-15-.19(b)3.

(g) Applicability of closure requirements to previously closed UST systems. When directed by the Department, the owner and operator of an UST system with field-constructed tanks or UST systems with airport hydrant fuel distribution system permanently closed before December 8, 2017 must assess the excavation zone and permanently close the UST system in accordance with rules 335-6-15-.34 through 335-6-15-.37 if releases from the UST system may, in the judgment of the Department, pose a current or potential threat to human health and the environment.

Author: Curt Johnson, Lee Davis.

Statutory Authority: Code of Alabama 1975, § 22-36-3.

History: Effective: December 8, 2017; **Amended:** Filed: October 23, 2018;
Effective: December 7, 2018.

335-6-16-.09 Scope of Tank Trust Fund Coverage.

(1) The Tank Trust Fund will provide to eligible UST or AST owners or operators coverage for the reasonable cost of response actions and for compensation of third parties for bodily injury and property damage resulting from accidental releases arising from the operation of an UST or AST which stores motor fuels.

(2) The financial responsibility requirements for eligible UST owners or operators will be \$5000 for UST owners or operators per occurrence and \$10,000.00 per occurrence for AST owners or operators for taking response actions and compensation of third parties, unless another amount is established by the Commission.

(3) The monies expended from the Tank Trust Fund to eligible UST owners or operators for response actions may be disbursed only up to such sum as will cause the Resource Conservation and Recovery Act, Subtitle I, the Superfund Amendments and Reauthorization Act of 1986, and other federal laws governing disbursements of federal funds for clean up and/or third party claims to come into effect.

(4) "Per Occurrence Indemnification Limit." The total amount of reimbursement available from the fund as a result of a release from underground or aboveground storage tanks shall not exceed under any circumstance the per occurrence indemnification limit established under this rule, which shall be determined by the commission upon recommendation of the trust fund management board, on an annual basis. In no event shall combined claims against the fund for payment of response actions and third-party claims exceed the per occurrence indemnification limit.

(a) If the per occurrence indemnification limit is increased, such increased limit shall be available for response actions costs and/or third party claims as to those existing sites that are eligible for trust fund benefits, but such increased limits shall not be available to existing sites where the department, as of the effective date of such increase, has issued a No Further Action Letter.

(b) Beginning December 7, 2018, the per occurrence indemnification limit is set at one million, seven hundred fifty thousand dollars (\$1,750,000), less the applicable deductible.

(5) The indemnification limit of the Tank Trust Fund with respect to satisfaction of third party claims shall be in the following amounts:

(a) For owners and operators of motor fuels underground and aboveground storage tanks that are located at petroleum marketing facilities, or that handle an average of more than 10,000 gallons of motor fuels per month based on annual throughput for the previous calendar year; \$1 million per occurrence,

(b) For all other owners and operators of motor fuels underground and aboveground storage tanks; \$500,000 per occurrence;

(c) For owners and operators of 1 to 100 motor fuels underground and aboveground storage tanks, \$1 million annual aggregate; and

(d) For owners and operators of more than 101 motor fuels underground and aboveground storage tanks, \$2 million annual aggregate.

(6) The Tank Trust Fund will provide to eligible UST or AST owners or operators coverage for the reasonable cost of response actions required by the Department, where that owner or operator's UST or AST system was found not to be the source of the release which prompted the Department's requirement for the response action.

(7) The financial responsibility requirements for eligible UST or AST owners as described in paragraph (2) above of this Rule, shall upon approval by the Commission, be waived.

Author: Sonja Massey, James Stevens and Gregory Stephens.

Statutory Authority: Code of Alabama 1975, §§ 22-35-4, 22-35-5, 22-35-7.

Effective: June 1, 1989. **Amended:** Effective: June 1, 1994; Amended: Effective: January 1, 2010; **Amended:** Effective: November 26, 2013; **Amended:** Effective: January 1, 2014; **Amended:** Effective: October 1, 2015; **Amended:** Filed: October 23, 2018; Effective: December 7, 2018.